

TWENTY-THIRD DIVISION

[CA-G.R. CV NO. 02922-MIN, February 06, 2015]

WILFREDA M. INDUS, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

D E C I S I O N

SANTOS, J.:^[1]

Before this Court is an appeal under Rule 41 of the Rules of Court filed by oppositor-appellant Republic of the Philippines (Republic) to assail the Order^[2] dated 27 February 2012 of the Regional Trial Court of Dipolog City, Branch 9, which granted petitioner-appellee Wilfreda M. Indus' Petition for Judicial Reconstitution of the Original Certificate of Title (OCT) No. O-12122 in the name of Spouses Saturnino Morandarte and Apolonia Nayal. Also assailed is the Order^[3] dated 02 May 2012 which denied oppositor-appellant Republic's Motion for Reconsideration thereto.

The Antecedents

For reconstitution is the original and owner's duplicate copies of the alleged Original Certificate of Title (OCT) No. O-12122 covering a parcel of land identified as Lot No. 5603 of the Cadastral Survey of Dipolog, located at Sinaman, Dipolog City, with an area of fourteen thousand three hundred ninety two (14,392) square meters (the subject land), allegedly titled in the name of spouses Saturnino Morandarte and Apolonia Nayal.

Upon the death of Saturnino and Apolonia, the subject land was allegedly transferred by their alleged legal heirs, namely: Antonio, Alejandro, Alberto, Geronimo, Maria, Pedro, Mamerta, and Jose, all surnamed Morandarte (Morandartes). The Morandartes have no birth records to show that they are indeed the children of Saturnino and Apolonia as they were born prior to the enactment of Act No. 3753 or the Civil Registry Law.^[4] However, Maria, Mamerta, Alberto and Pedro Morandarte have Certificates of Baptism showing that their parents are Saturnino and Apolonia and that they were born on 5 August 1917,^[5] 11 May 1916,^[6] 21 November 1909,^[7] and 15 May 1906,^[8] respectively.

The subject land was allegedly bounded by the following landowners per records of the City Assessor of Dipolog City: on the Northeast by Lot 5602 owned by Leonardo Soliva of Sinaman, Dipolog City and Lot 2321 owned by Constancio Abing of Punta, Dipolog City; on the East by Lot 2341, now subdivided and the resulting sub-lots owned by Cresencia Bustalino of Sta. Filomena, Dipolog City, Rosalina Busatlino of Sta. Filomena, Dipolog City, and Teresita de Jesus of Sinaman, Dipolog City; on the Southeast by Lot 5604 owned by Erlinda Agan of Sinaman, Dipolog City; and on the Southwest by Barrio Road.

On 15 April 2011, petitioner-appellee Wilfreda M. Indus filed a "Petition for Judicial Reconstitution of Original Certificate of Title No. O-12122"^[9] docketed as Special Proceeding No. 782 before the Regional Trial Court (RTC) of Dipolog City. She claimed to be the daughter of Geronimo Morandarte and she and her spouse are the absolute owners and lawful possessors of the subject land, having acquired it from her father Geronimo and the latter's siblings, the Morandartes, as evidenced by the Deed of Sale^[10] dated 07 May 1980. She further alleged that after they acquired the subject land, she and her family have been in possession thereof, declared it under their names for taxation purposes and paid the real property taxes due thereon.^[11] However, she admitted that since the time they acquired the subject land, she and her spouse have not registered the sale and caused the title thereof transferred in their name for the reason that both the original copy and owner's duplicate copy of the OCT No. O-12122 covering the subject land are lost and/or missing.

It was also alleged by petitioner-appellee that she verified with the Office of the Register of Deeds (ROD), both in Dipolog City and the Province of Zamboanga del Norte, as to the availability of the original copy of said OCT NO. O-12122. The ROD of Dipolog City issued a Certification^[12] dated 09 October 2009 certifying that it has no record of OCT No. O-12122 for Lot 5603. Likewise, the ROD of Zamboanga del Norte issued a Certification^[13] dated 24 June 2010 which reads:

This is to CERTIFY, based from the Index Card (Judicial Form No. 121), of MORANDARTE, SATURNINO, copy of which is still intact and existing from the files of this Registry, that Lot No. 5603, situated in the Municipality of Dipolog (now City of Dipolog), containing an area of FOURTEEN THOUSAND THREE HUNDRED NINETY TWO (14,392) SQUARE METERS, was duly issued of ORIGINAL CERTIFICATE OF TITLE No. O-12122 registered in the name of Spouses Saturnino Morandarte and Apolonia Nayal but despite diligent (sic) effort to locate the certificate of title, the same can no longer be found from among the records in the archive of this Registry.

Pursuant to the said certification of the ROD of Zamboanga del Norte, petitioner-appellee claimed that OCT No. O-12122 covering Lot No. 5603 was duly issued using as basis thereof the Index Card (Judicial Form No. 121)^[14] which is still intact and existing in the files of the said office.

Likewise, petitioner-appellee alleged that she also verified with the Office of the Clerk of Court of the Regional Trial Court of Dipolog City as to the existence and availability of the decree involving the subject land and she was issued a certified true copy of Decree No. 343345^[15] which was, however, in a dilapidated state and a portion thereof, particularly the lower portion describing the technical description of Lot No. 5603, was missing. Hence, petitioner claimed that she secured a verified and approved Technical Description¹⁶ of the subject land from the Department of Environment and Natural Resources (DENR), Lands Management Services, Region IX, Pagadian City.

Thus, petitioner-appellee asserted that since the original copy of OCT No. O-12122 was considered to have been lost irretrievably from among the records of both the

Offices of the Registry of Deeds of Dipolog City and Zamboanga del Norte, as well as the owner's copy thereof, she honestly believes that with the existence of the Index Card (Judicial Form No. 121), decree and verified and approved technical description, these could be considered sufficient sources for the reconstitution of the original and owner's copy of OCT No. O-12122. She further claimed that there is no other owner's copy issued, neither are there any deed or public instrument covering the subject land that has been presented for registration with the Offices of the Registry of Deeds of Dipolog City and Zamboanga del Norte. Likewise, petitioner-appellee alleged that the subject land is free from any lien and encumbrance except of the first lien in favor of the Insular Government to guarantee payment of the special taxes assessed pursuant to the provision of Section 18 of Act 2259, as amended. She added that the subject land is not involved in any case or litigation and that there is no boundary conflict with the adjoining owners. It was also alleged that at the time the title was lost, it was accorded full force and effect. Also, there is no similar petition filed for the judicial reconstitution of the OCT No. O-12122.

It was claimed by petitioner-appellee that unless an order is issued by the court, the ROD of Dipolog City will not issue a new original and owner's copy of OCT No. O-12122 in lieu of the missing copies. She prayed that after due notice, publication and hearing, an order be issued:

- a. DIRECTING the Register of Deeds of Dipolog City to cause the judicial reconstitution of the original and owner's duplicate copies of ORIGINAL CERTIFICATE OF TITLE NO. O-12122 covering Lot No. 5603, using as sources and basis for the desired reconstitution Decree No. 343345, Index Card (Judicial Form No.121) and verified Technical Description, entitling it to like faith and credit, for all legal intents and purposes, with that of the lost copies, conformably with Section 110 of P.D. No. 1529 and Sec. 2 of RA 26, upon payment by petitioner of the legal fee(s) therefore, if any; and
- b. DECLARING the lost original and owner's duplicate copies of OCT No. O-12122 regarded as totally lost, null and void and ineffective, if found later, it should be surrendered to the Office of the Register of Deeds of Dipolog City for its eventual cancellation.^[17]

On 26 April 2011, the RTC found the petition sufficient in form and substance; hence, it issued a Notice of Hearing^[18] setting the petition for initial hearing on 12 September 2011. The notice was likewise posted^[19] in conspicuous public places and published^[20] in the Official Gazette.

The Land Registration Authority (LRA) likewise made its Report^[21] dated 22 August 2011 signed by Roselle Antonette P. Lazo-Favis, Assistant Chief, Reconstitution Division, which reads *inter alia*:

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(2) From Book No. 16 of the "Record Book of Cadastral Lots" on file at the Cadastral Decree Section, this Authority, it appears that Decree No. 343345 was issued for Lot No. 5603, Dipolog Cadastre, on October 29, 1928, in Cadastral Case No. 7, GLRO Cad. Record No. 759. Copy of said decree, however, is no longer available to this Authority.

(3) The technical description of Lot No. 5603 of the Cadastral Survey of Dipolog, appearing on the reproduction of Decree No. 343345 has been examined and verified correct after due computation. Said technical description when plotted in the Municipal Index Sheet No. 20159, does not appear to overlap previously plotted/decreed properties in the area.

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Likewise, a Report^[22] dated 05 October 2011 was issued by the ROD of Dipolog City through Ma. Charlene Yebes-Abarquez, Acting Register of Deeds, which reads *inter alia*:

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2. That upon verification, it was found out that this registry has no record on file of OCT No. O-12122, Lot No. 5603 allegedly issued under the name of Spouses Saturnino Morandarte and Apolonia Nayal nor has any knowledge or information of its existence;

3. That somehow, pursuant to Section 39, P.D. 1529, it is the Administrator of the Land Registration Authority who shall cause to be prepared the decree of registration as well as the original and duplicate of title, upon order of the court. The original certificate of title shall be a true copy of the decree of registration. The decree of registration shall be signed by the Administrator entered and filed in the Land Registration Authority. The Original Certificate of Title shall also be signed by the Administrator and shall be sent, together with the owner's duplicate certificate to the Register of Deed of the City or Province where the property is located for entry in his registration book;

4. That the Register of Deeds is not clothed with the authority to issue Original Certificate of Title;

5. That it is the Office of the Administrator, Land Registration Authority, xxx that has the knowledge and information that OCT No. O-12122 was issued for Lot 5603, with an area of 14,392 square meters, situated in Municipality (now City of Dipolog and issued in the name of Spouses Saturnino Morandarte and Apolonia Nayal with all the circumstances appurtenant thereto;

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WHEREFORE, premised on the foregoing, after due notice and hearing, and the report that shall have been submitted by the Reconstituting Officer, Reconstitution Division, LRA, content of which favorably certifying the due existence of the afore-described reconstituted original certificate of title, the herein Acting Register of Deeds of Dipolog City interposes no objection for the reconstitution of the above-described Original Certificate of Title No. O-12122 using as basis Judicial Decree No. 343345.

The trial court, after determining that petitioner-appellee complied with the jurisdictional requirements of the petition and there being no opposition thereto except the government, petitioner-appellee was allowed to present her evidence.

Meanwhile, petitioner-appellee made further verification with the ROD of Zamboanga del Norte and she alleged that an original copy of Decree No. 343345 covering Lot No. 5603 was found and is still intact and existing in the files of the said office and she was given a certified true copy thereof.^[23] Thus, petitioner-appellee presented, along with her testimony, the following documentary evidence:

- 1) Exhibit "A" – Deed of Absolute Sale dated 07 May 1980;^[24]
- 2) Exhibit "B" – Certification issued by ROD of Dipolog City dated 09 October 2009;^[25]
- 3) Exhibit "C" – Certified True Copy of Judicial Form No. 121 issued by the ROD of Zamboanga del Norte;^[26]
- 4) Exhibit "D" – Certification issued by the ROD of Zamboanga del Norte dated 24 June 2010;^[27]
- 5) Exhibit "E" – Certified True Copy of Decree No. 343345 issued by the Office of the Clerk of Court, RTC of Dipolog City;^[28]
- 6) Exhibit "F" – Verified and Approved Technical Description of Lot 5603, Dip. Cad. 85, issued by the Technical Records Section, DENR, Region IX, Pagadian City;^[29]
- 7) Exhibits "G" and "H" – Certifications dated 19 January 2012 issued by the City Civil Registrar of Dipolog City;^[30]
- 8) Exhibits "I" to "L" – Certificates of Baptism issued by the Parish of Our Lady of the Most Holy Rosary Cathedral, Diocese of Dipolog;^[31]
- 9) Exhibit "M" – Certified True Copy of Decree No. 343345 issued by the Office of the Registry of Deed of Zamboanga del Norte on 07 February 2012;^[32]
- 10) Exhibits "N" to "T" – Tax Declarations and Real Property Tax Receipts;^[33]
- 11) Exhibit "U" – Certificate of Publication;^[34]
- 12) Exhibit "V" – Notice of Appearance of the Solicitor General;^[35] and
- 13) Exhibit "W" – Land Registration Report dated 22 August 2011.^[36]