

THIRD DIVISION

[G.R. No. 239505, February 17, 2021]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. ROGELIO B. CIRUELAS,* REPRESENTED BY HIS ATTORNEY-IN-FACT, DOMINADOR B. CIRUELAS, RESPONDENT. D E C I S I O N

DELOS SANTOS, J.:

Before the Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court seeking the reversal of the Decision^[2] dated December 1, 2017 and the Resolution^[3] dated May 22, 2018 rendered by the Court of Appeals (CA) in CA-G.R. CV No. 104582. The CA upheld the Regional Trial Court's (RTC) Amended Decision^[4] to issue a new Certificate of Title in the name of respondent Rogelio B. Ciruelas (Rogelio) and in the same proceeding, authorized the correction of his surname on the title from Ceruelas to Ciruelas.

The Facts

Rogelio and Dominador B. Ciruelas (Dominador) are brothers. The instant controversy arose from a *Petition for the Issuance of a New Owner's Duplicate Copy of Transfer Certificate of Title No. T-62328 Registered in the name of Rogelio Ceruelas and Correction in the Family Name of the Registered Owner from Ceruelas to Ciruelas and on file in the Register of Deeds [of] Batangas Province* filed by Dominador, as Rogelio's attorney-in-fact.^[5] Rogelio executed an Affidavit of Loss^[6] stating, that: (a) he was the registered owner of a parcel of land situated in Bayorbor, Mataas na Kahoy, Batangas, covered under Transfer Certificate of Title (TCT) No. T-62328;^[7] (b) he kept his owner's duplicate copy of TCT No. T-62328 inside a cabinet in his bedroom at his residence; and (c) despite diligent and exhaustive efforts, said owner's duplicate copy could not be located and thus, deemed lost and beyond recovery. A Certification was issued by the Register of Deeds of Batangas Province certifying that a copy of TCT No. T-62328 registered under the name of Rogelio Ceruelas is intact and existing in their files,^[8] The Affidavit of Loss was submitted to the Registry of Deeds of Batangas and annotated on the title.^[9] The petition prayed for the following reliefs: (a) that the owner's duplicate copy of TCT No. T-62328 be declared null and void; (b) an order be issued directing the Registry of Deeds of Batangas Province to issue a new owner's duplicate copy of TCT No. T-62328 in the name of the registered owner; and (c) to amend his surname from Ceruelas to Ciruelas.^[10] As there was no opposition to the petition, Dominador presented his evidence *ex parte*. Dominador testified as to the circumstances relating to the loss of the owner's duplicate copy and how his brother's family name was inadvertently misspelled as "Ceruelas" when their true and correct family name is Ciruelas.^[11] Likewise submitted into evidence was the Special Power of Attorney (SPA) issued by Rogelio designating Dominador to appear

on his behalf^[12] and documentary evidence to establish the requisite jurisdictional facts.

The RTC Ruling

On March 28, 2014, the RTC rendered a Decision^[13] granting the petition. The court found no reason to doubt the claim that the owner's duplicate copy of TCTNo. T-62328 was lost. The Office of the Solicitor General (OSG) sought reconsideration, which was denied in an Order^[14] dated September 30, 2014. In the same Order, the RTC granted the Motion for Clarification filed by Dominador which sought to amend the dispositive portion of the RTC Decision to include the matter of correcting Rogelio's surname.^[15] Considering that the RTC Decision had not yet attained finality and the matter of the correct spelling of Rogelio's surname was discussed in the body of the said Decision, the RTC rendered an Amended Decision.^[16] Thus, the dispositive portion of the RTC Decision was amended as follows:

WHEREFORE, the foregoing petition is hereby GRANTED. Accordingly, the lost owner's duplicate copy of Transfer Certificate of Title No. T-62328 is hereby cancelled; and the Register of Deeds for the Province of Batangas is hereby ordered to issue a new owner's copy of the title which shall bear the annotation that the same is issued in lieu of the lost one; and that it shall in all respects be entitled to like faith and credit as the original copy of TCT No. T-62328 on file with the Registry of Deeds for the Province of Batangas, and shall be regarded as such for the purposes of Presidential Decree No. 1529 (Property Registration Decree), as amended. Likewise, the Register of Deeds is hereby directed to cause the correction of the petitioner's family name as registered owner in TCT No. T-62328 from CERUELAS to **CIRUELAS** such that his full name shall **appear therein as ROGELIO B. CIRUELAS**. SO ORDERED.^[17]

The CA Ruling

On December 1, 2017, the CA rendered the assailed Decision^[18] dismissing the appeal. In so ruling, the CA held: (1) the registration of the SPA in favor of Dominador is neither a prerequisite for its validity nor will its non-registration render an agent's authority invalid;^[19] (2) sufficient evidence was adduced to warrant a reconstitution of TCT No. T-62328 which was lost;^[20] and (3) while an action for judicial reconstitution under Section 109 of Presidential Decree (P.D.) No. 1529, otherwise known as the "Property Registration Decree," should be resolved ahead of an action to amend under Section 108 of the same law, to split the proceedings at this juncture would result in multiplicity of suits, duplicitous procedure and cause unnecessary delay.^[21] Dissatisfied, the OSG sought reconsideration. On May 22, 2018, the CA rendered the assailed Resolution^[22] denying the Motion for Reconsideration for lack of merit. Hence, this Petition. The Republic (petitioner), through the OSG, maintains that Dominador had no authority to either institute the action on behalf of Rogelio or sign the Verification and Certification against Forum Shopping because the SPA was not registered with the Register of Deeds as mandated by Section 64 of P.D. No. 1529.^[23] Further, the evidence presented by Dominador could not prove the fact of loss of the owner's duplicate copy insofar as the Affidavit of Loss executed by Rogelio was hearsay and Dominador had no

personal knowledge as to the circumstances relating to the safekeeping and eventual loss of the owner's duplicate copy.^[24] Finally, the OSG insists that it was improper for the appellate court to allow the correction of Rogelio's surname in the same action for re-issuance of a lost duplicate title in contravention of the express mandate of Section 108 of P.D. No. 1529.^[25] In his Comment,^[26] Dominador avers that the arguments raised by the OSG have been previously considered and passed upon by both the RTC and the CA. More importantly, the OSG raises questions of fact which are beyond the jurisdiction of the Court. He claims that the OSG failed to state circumstances showing lack or excess of jurisdiction amounting to grave abuse of discretion as required under Rule 65. Finally, contrary to the assertions of the OSG, he has personal knowledge as to the circumstances relating to the loss of Rogelio's owner's duplicate copy of TCT No. T-62328 because they are both single, reside in the same house, and share the bedroom where said copy was kept and subsequently lost. In Reply,^[27] the OSG points out that the instant petition is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court and not a Petition for *Certiorari* under Rule 65 and hence, there is no need to allege grave abuse of discretion. Further, the OSG denies that the petition raised questions of fact as the issues raised delve in to the proper application of law of procedure, specifically: the authority of the initiating party, the competence of the witness, and the propriety of the action before the RTC.

The Issues

To finally put an end to this controversy, the following issues must be resolved: (1) whether Dominador, as attorney-in-fact, had the authority to file a petition for new owner's duplicate on behalf of Rogelio and execute the Verification and Certification against Forum Shopping; (2) whether the fact of loss of the owner's duplicate of TCT No. T-62328 was established; and (3) whether a certificate of title may be altered through a proceeding other than Section 108 of P.D. No. 1529.

The Court's Ruling

The petition is meritorious. While Dominador had the authority to initiate the petition under Section 109 of P.D. No. 1529 and to execute the Verification and Certification against Forum Shopping, the Court finds that the evidence presented by Rogelio, through Dominador, failed to prove the fact of loss as to warrant the issuance of a new owner's duplicate.

Dominador had the requisite authority to file the petition and execute the Verification and Certification against Forum Shopping.

Rogelio is the registered owner of TCT No. T-62328 and thus, is the real party-in-interest, who should initiate an action under Section 109 of P.D. No. 1529 before the RTC. However, by virtue of the SPA executed by Rogelio in favor of Dominador, a contract of agency was created between them with Rogelio as the principal and Dominador as the agent. In a contract of agency, the agent binds himself to represent another, the principal, with the latter's consent or authority.^[28] An agency is based on representation, where the agent acts for and in behalf of the principal on

matters within the scope of the authority conferred upon him such that, the acts have the same legal effect as if they were personally done by the principal himself. [29] By this legal fiction of representation, the actual or legal absence of the principal is converted into his legal or juridical presence. [30] Petitioner makes much of the fact that the SPA conferring authority to Dominador was not registered with the Registry of Deeds of Batangas and, thus, in violation of Section 64 of P.D. No. 1529 which states:

SEC. 64. *Power of attorney.* Any person may, by power of attorney, convey or otherwise deal with registered land and the same shall be registered with the Register of Deeds of the province or city where the land lies. Any instrument revoking such power of attorney shall be registered in like manner.

A plain reading of the aforementioned provision, however, does not state that the registration of an SPA is a prerequisite to its validity or conversely, its non-registration makes the agent's authority ineffective. The Court agrees with the rationalization of the appellate court that the main purpose of registration is to notify the whole world and ultimately, to protect the rights of any third person who may have interests or claims over the land. [31] Records show that the *Petition for the Issuance of a New Owner's Duplicate Copy of TCT No. T-62328 Registered in the name of Rogelio Ceruelas and Correction in the Family Name of the Registered Owner from Ceruelas to Ciruelas and on file in the Register of Deeds for Batangas Province* was published once a week for three consecutive weeks in a newspaper of general circulation, was set for hearing and announced to the public, with no person interposing any objections. As the purpose of registration of the SPA was accomplished, the Court finds no reason to invalidate Dominador's authority on this ground alone. [32] Section 5, Rule 7 of the Rules of Court provides that the certification against forum shopping must be executed by the plaintiff or principal party. The reason for this is that the principal party has actual knowledge whether a petition has previously been filed involving the same case or substantially the same issues. If, for any reason, the principal party cannot sign the petition, the one signing on his behalf must have been duly authorized. [33] On the argument that it should have been Rogelio who executed the Verification and Certification against Forum Shopping; records show that the SPA executed by Rogelio authorized Dominador to sign the same as it expressly clothes the latter authority "*to sign and execute any and all documents relative thereto and to attend hearings so required and to do such other acts necessary for the accomplishment of the foregoing objective*" [34] and such authority is broad enough to include the execution of a Verification and Certification against Forum Shopping. More importantly, the Court in the case of *Heirs of Josefina Gabriel v. Cebrero* [35] has upheld the authority of an agent to execute a Verification and Certification against Forum Shopping when he was constituted precisely to prosecute a suit on behalf of his principal, thus:

It was held that when an SPA was constituted precisely to authorize the agent to file and prosecute suits on behalf of the principal, then it is such agent who has actual and personal knowledge whether he or she has initiated similar actions or proceedings before various courts on the same issue on the principal's behalf, thus, satisfying the requirements for a valid certification against forum shopping. The rationale behind the rule that it must be the "petitioner or principal party himself" who should sign

such certification does not apply. Thus, the rule on the certification against forum shopping has been properly complied with when it is the agent or attorney-in-fact who initiated the action on the principal's behalf and who signed the certification against forum shopping.^[36]
(Underscoring supplied)

The fact of loss of TCT No. T-62328 was not sufficiently proven. In the assailed Decision, the appellate court held that in a petition for the issuance of a second owner's duplicate copy of a certificate of title in replacement of a lost one, the only questions to be resolved are: (1) whether or not the original owner's duplicate copy has indeed been lost, and (2) whether the petitioner seeking the issuance of a new owner's duplicate title is the registered owner or other person in interest. Thus, the appellate court ruled:

Under Section 109 of Presidential Decree No. 1529, the owner must file with the proper Registry of Deeds a notice of loss executed under oath. In this case, Rogelio executed an Affidavit of Loss on October 9, 2013 claiming loss of TCT No. T-62328. He had it annotated under Entry No. 564092 on October 24, 2013 with the Registry of Deeds for Batangas Province. On October 30, 2013, Rogelio, through Dominador, instituted the instant reconstitution proceedings. Undoubtedly, the plaintiff-appellee in this case, complied with the requirements of Section 109 of Presidential Decree No. 1529. In fine, we are convinced that plaintiff-appellee adduced competent evidence to warrant reconstitution of the allegedly lost owner's duplicate certificate of title.^[37]

Erroneously, the appellate court oversimplified the procedure for issuance of a replacement for a lost duplicate certificate. The applicable law in case of loss of the owner's duplicate certificate of title is Section 109 of P.D. No. 1529 which provides:

SEC. 109. *Notice and replacement of lost duplicate certificate.* In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any Instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered. Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.
(Underscoring supplied)

Section 109 of P.D. No. 1529 has two distinct requirements: the first paragraph refers to the notice requirement, *i.e.*, submission of an Affidavit of Loss to the Register of Deeds while the second paragraph pertains to the procedure for the replacement, *i.e.*, filing a petition for the issuance of a new duplicate certificate. The second paragraph contemplates the conduct of a full-blown hearing wherein petitioner must prove the fact of loss or theft through preponderant evidence. As