

FIRST DIVISION

[G.R. No. 222958, March 11, 2020]

PHILIPPINE BANK OF COMMUNICATIONS, PETITIONER, V. THE REGISTER OF DEEDS FOR THE PROVINCE OF BENGUET, RESPONDENT.

D E C I S I O N

CAGUIOA, J:

This is a Petition for Review on *Certiorari*^[1] (Petition) under Rule 45 of the Rules of Court assailing the February 23, 2015 Decision^[2] (Assailed Decision) and February 12, 2016 Resolution^[3] (Assailed Resolution) of the Court of Appeals^[4] (CA) in CA-G.R. SP No. 126081. The CA dismissed petitioner Philippine Bank of Communications' (PBCOM) Rule 65 petition for *certiorari* and affirmed *in toto* the April 27, 2012^[5] and June 7, 2012^[6] Orders of the Regional Trial Court, Branch 63, La Trinidad, Benguet (RTC Branch 63) in LRC Admin. Case No. 12-AD-1401.^[7]

The Facts and Antecedent Proceedings

The instant dispute involves two successive petitions for replacement of lost owner's duplicate Transfer Certificate of Title (TCT) No. 21320. The first petition was dismissed by the Regional Trial Court, Branch 62, La Trinidad, Benguet (RTC-Branch 62) in LRC Case No. 11-AD-1335 (first petition) for insufficiency of evidence, *i.e.*, for failure to prove the fact of loss, while the second petition was dismissed by the RTC-Branch 63 in LRC Adm. Case No. 12-AD-1401 (second petition) on the ground of *res judicata*.^[8] The instant case is an offshoot of the second petition. The CA summarized the facts as follows:

On January 28, 2011, PBCOM filed a petition for issuance of the owner's duplicate copy of TCT No. 21320 in lieu of the lost one (*first petition*), docketed as LRC Case No. 11-AD-1335, raffled to RTC, Branch 62, La Trinidad, Benguet. PBCOM claimed to be the registered owner of the subject property, having acquired it on March 2, 1985 through an extrajudicial foreclosure sale. The property was allegedly not included in PBCOM's inventory of assets because the bank's La Union branch failed to forward all the pertinent records of its acquisition to the Makati head office. Although the property was registered in the bank's name, it only "got wind" of its existence when it received a May 2010 Notice and Reminder to Real Property Tax Payers from the Office of the Municipal Treasurer of La Trinidad, Benguet. It allegedly exerted all possible efforts to locate the owner's duplicate copy of TCT No. 21320, but to no avail. It then filed an affidavit of loss with the Registry of Deeds of Benguet.

After PBCOM's *ex parte* presentation of evidence, the RTC, Branch 62 issued its July 29, 2011 Order dismissing the first petition for

insufficiency of evidence. It held that PBCOM failed to prove that it had "exerted all efforts to determine the actual whereabouts of TCT No. 21320 from all its available records and the bank's past and present officers or employees and legal counsel who could and should have knowledge of the bank's acquired property and the documents relative thereto." Noting the testimony of one (1) of PBCOM's witnesses that it is possible that the previous accountable officer did not turn over the title to the property or the lawyer who handled the foreclosure proceeding failed to include the owner's copy of TCT No. 21320 in the documents forwarded to their main office, the RTC, Branch 62 stressed that PBCOM should have exerted efforts to verify from these persons the whereabouts of the missing title because if any other person is known or suspected to be in possession of the copy of the title, either lawfully or unlawfully, the petition would not be the appropriate legal remedy.

PBCOM filed an omnibus motion for reconsideration of the July 29, 2011 Order and prayed that it be allowed to present additional evidence to prove the allegations in its first petition. It also filed a Manifestation suggesting the publication in a newspaper of general circulation of the fact of loss and the pending proceedings for the issuance of a new one. The RTC, Branch 62 gave PBCOM five (5) days to file a supplemental motion but failed to comply and did not bother to set its foregoing motions for hearing. Thus, in its February 9, 2012 Order, the RTC, Branch 62 considered the omnibus motion for reconsideration as well [as] the Manifestation as abandoned.

Instead of filing a[n] appeal from the July 29, 2011 Order, PBCOM filed the second petition, docketed as LRC Case No. 12-AD-1401 [(second petition)], raffled to RTC, Branch 63. The allegations in the second petition were essentially the same as that contained in the first petition.

[9] (Italics and underscoring supplied)

In its April 27, 2012 Order, the RTC-Branch 63 dismissed the second petition, *motu proprio*, on the ground of *res judicata*.^[10] As the first petition was dismissed for insufficiency of evidence, *i.e.*, an adjudication on the merits, the RTC-Branch 63 held that the second petition involving the same parties and cause of action was barred by prior judgment.^[11]

PBCOM sought reconsideration of the aforementioned Order, which was, however, denied.^[12] It then filed a notice of appeal, which it later withdrew.^[13] Thereafter, it filed a petition for *certiorari* with the CA, claiming that the respondent judge therein committed grave abuse of discretion (1) in dismissing the second petition on the ground of *res judicata* and (2) in dismissing, without first determining, whether the evidence presented in the first petition was identical to the evidence intended to be presented in the second petition.^[14] PBCOM claimed that the dismissal of the first petition did not bar the filing of a second petition, for otherwise, it would be forever barred from securing a "replacement copy of the missing title."^[15]

The CA dismissed the petition for *certiorari* and held that: (1) PBCOM availed of the wrong remedy as the dismissal of the second petition on the ground of *res judicata* was a complete disposition and was thus reviewable *via* appeal;^[16] and (2) all

elements of *res judicata* were attendant, given that PBCOM sought the issuance of the owner's duplicate copy of TCT No. 21320 in both petitions.^[17]

PBCOM thus filed the instant Petition under Rule 45 of the Rules of Court alleging, among others, that: (1) the Rules of Court and the concept of *res judicata* do not apply to land registration;^[18] and (2) it availed of the correct remedy.^[19]

In its Comment,^[20] respondent Register of Deeds through the Office of the Solicitor General, argued that: (1) the RTC-Branch 63 correctly dismissed the petition on the ground of *res judicata*;^[21] and (2) PBCOM availed of the wrong remedy.^[22]

Issues

The issues pending before the Court may be summarized as follows: (1) whether PBCOM availed of the correct remedy to challenge the dismissal of the second petition; and (2) whether the RTC-Branch 63 correctly dismissed the second petition on the ground of *res judicata*.

The Court's Ruling

The Petition has partial merit.

PBCOM availed of the wrong remedy when it filed a Rule 65 petition for certiorari to challenge the dismissal of the second petition on the ground of res judicata

A Rule 65 petition for *certiorari* is not the correct remedy to challenge the dismissal of the second petition.

Rule 41 of the Rules of Court governs ordinary appeals from the Regional Trial Courts, *viz.*:

SECTION 1. Subject of appeal. — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

- (a) An order denying a petition for relief or any similar motion seeking relief from judgment;
- (b) An interlocutory order;
- (c) An order disallowing or dismissing an appeal;
- (d) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;
- (e) An order of execution;

(f) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and

(g) An order dismissing an action without prejudice.

In any of the foregoing circumstances, the aggrieved party may file an appropriate special civil action as provided in Rule 65. (*As amended by A. M No. 07-7-12-SC, December 4, 2007.*) (Underscoring supplied)

In *Medina v. Spouses Lozada*,^[23] the Court explained:

An order or a judgment is deemed final when it finally disposes of a pending action, so that nothing more can be done with it in the trial court. In other words, the order or judgment ends the litigation in the lower court. An order of dismissal, whether correct or not, is a final order. It is not interlocutory because the proceedings are terminated; it leaves nothing more to be done by the lower court. Therefore, the remedy of the plaintiff[, except when otherwise provided,] is to appeal the order.^[24]

Applying the foregoing, there is no question that (1) a dismissal on the ground of *res judicata* is a final order that completely disposes of the case and leaves nothing more to be done in the RTC,^[25] and (2) such dismissal does not fall within the enumeration of orders from which no appeal may be taken. In fact, a dismissal on the ground of *res judicata* is expressly declared to be appealable under Rule 16, Section 1 in relation to Section 5, *viz.*:

SECTION 1. *Grounds.* — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

x x x x

(f) That the cause of action is barred by a prior judgment or by the statute of limitations;

x x x x

SEC. 5. *Effect of dismissal.* — Subject to the right of appeal, an order granting a motion to dismiss based on paragraphs (f), (h) and (i) of Section 1 hereof shall bar the refiling of the same action or claim. (n) (Underscoring supplied)

Evidently therefore, appeal — and not a special civil action for *certiorari* — was the correct remedy to challenge the dismissal of the second petition on the ground of *res judicata*. *United Alloy Phils. Corp. v. United Coconut Planters Bank*^[26] has unequivocally stated, "if the reason for the dismissal is based on paragraphs (f), (h), or (i) (i.e., *res judicata*, prescription, extinguishment of the claim or demand, or unenforceability under the Statute of Frauds) the dismissal, under Section 5 of Rule 16, is *with prejudice* and the remedy of the aggrieved party is to appeal the order granting the motion to dismiss."^[27]

As appeal was available, PBCOM's Rule 65 petition would not prosper even if the ground therefor was grave abuse of discretion.^[28] In *Chingkoe v. Republic*,^[29] the Court explained:

x x x Pursuant to Rule 65 of the Rules of Court, a special civil action for *certiorari* could only be availed of when a tribunal "acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of [its] judgment as to be said to be equivalent to lack of jurisdiction" or when it acted without or in excess of its x x x jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and if there is no appeal or other plain, speedy, and adequate remedy in the ordinary course of law.

It is settled that the Rules precludes recourse to the special civil action of *certiorari* if appeal by way of a [Notice of Appeal or a] Petition for Review is available, as the remedies of appeal and *certiorari* are mutually exclusive and not alternative or successive.^[30] (Underscoring supplied)

PBCOM admitted as much when it filed an ordinary appeal of the April 27, 2012 Order but subsequently withdrew the same.^[31]

In view of the foregoing, the CA cannot be faulted for having dismissed the petition for *certiorari*. PBCOM's contention that a Rule 65 petition was proper as the Order dismissing the second petition was void for lack of due process is untenable. Rule 9, Section 1 of the Rules of Court expressly allows the *motu proprio* dismissal of cases on the ground, among others, of *res judicata*, viz.:

SECTION 1. *Defenses and objections not pleaded.* — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.

In *Katon v. Palanca, Jr.*,^[32] citing *Gumabon v. Larin*,^[33] the Court explained:

"x x x [T]he *motu proprio* dismissal of a case was traditionally limited to instances when the court clearly had no jurisdiction over the subject matter and when the plaintiff did not appear during trial, *failed to prosecute his action for an unreasonable length of time* or neglected to comply with the rules or with any order of the court. Outside of these instances, any *motu proprio* dismissal would amount to a violation of the right of the plaintiff to be heard. Except for qualifying and expanding Section 2, Rule 9, and Section 3, Rule 17, of the Revised Rules of Court, the amendatory 1997 Rules of Civil Procedure brought about no radical change. Under the new rules, a court may *motu proprio* dismiss a claim when it appears from the pleadings or evidence on record that it has no jurisdiction over the subject matter; when there is another cause of action pending between the same parties for the same cause, or where the action is barred by a prior judgment or by statute of limitations x x x."^[34] (Underscoring supplied)