

SECOND DIVISION

[G.R. No. 222916, July 24, 2019]

HEIRS OF SPOUSES GERVACIO A. RAMIREZ AND MARTINA CARBONEL, REPRESENTED BY CESAR S. RAMIREZ AND ELMER R. ADUCA, PETITIONERS, VS. JOEY ABON AND THE REGISTER OF DEEDS OF NUEVA VIZCAYA, RESPONDENTS.

DECISION

CAGUIOA, J:

Before the Court is a Petition for Review on *Certiorari*^[1] (Petition) under Rule 45 of the Rules of Court filed by petitioners Heirs of Spouses Gervacio A. Ramirez and Martina Carbonel (Heirs of the Sps. Ramirez), as represented by Cesar S. Ramirez (Cesar) and Elmer R. Aduca (Elmer), against respondents Joey T. Abon (Abon) and the Register of Deeds of Nueva Vizcaya (RD), assailing the Decision^[2] dated July 29, 2015 (assailed Decision) and Resolution^[3] dated February 15, 2016 (assailed Resolution) rendered by the Court of Appeals, Former Fourteenth Division (CA, Former 14th Division) in CA-G.R. SP No. 132961.

The Facts and Antecedent Proceedings

As narrated by the CA, Former 14th Division in its assailed Decision, and as culled from the records of the instant case, the essential facts and antecedent proceedings of the case are as follows:

[The petitioners Heirs of the Sps. Ramirez] allege that Original Certificate of Title No. T-4480^[4] (OCT, for brevity) is registered in the names of the late spouses Gervacio Ramirez and Martina Carbonel [(Sps. Ramirez)] and covers a 1,266-square meter lot (Lot 1748) located in Barrio Sta. Lucia, Bagabag, Nueva Vizcaya [(subject property)]. On May 30, 1978, Angel Abon, the father of [respondent Abon], requested the [RD] to issue a new owner's duplicate of the OCT on the basis of a document denominated as "*Confirmation of Previous Sale*"^[5] (CPS, for brevity) whereby the [Sps. Ramirez] had allegedly sold Lot 1748 to him (Angel). Using the new owner's duplicate of the OCT, Angel was able to segregate a 135-square meter portion [(Lot 1748-A)] from Lot 1748 and obtain title thereto-Transfer Certificate of Title No. T-50359^[6] (TCT, for brevity). In June 2013, [the petitioners Heirs of the Sps. Ramirez] were furnished a copy of the CPS. Having been informed that respondent [Abon] would use the CPS to transfer title to the rest of Lot 1748, [the petitioners Heirs of the Sps. Ramirez] filed a [C]omplaint^[7] [for Annulment of Confirmation of Previous Sale, Issuance of another Owner's Duplicate

Copy of OCT No. 4480, Damages with Prayer for Issuance of Preliminary Mandatory Injunction] to have said CPS annulled on the ground of forgery. Unfortunately, the [Regional Trial Court of Nueva Vizcaya (RTC), Branch 27] dismissed the complaint *motu proprio* for lack of jurisdiction. [The petitioners Heirs of the Sps. Ramirez] filed a certiorari petition^[8] [before the CA, Fourth (4th) Division], docketed as CA G.R. CV No. 131624. [According to the Case Status Inquiry System of the CA, on May 2, 2014, the CA, 4th Division rendered a Decision^[9] denying the petitioners Heirs of the Sps. Ramirez' certiorari petition for lack of merit. On September 29, 2014, the CA, Special Former 4th Division issued a Resolution^[10] denying the petitioners Heirs of the Sps. Ramirez' Motion for Reconsideration. As indicated by the Entry of Judgment,^[11] the Decision and Resolution of the CA, 4th Division and Special Former 4th Division, respectively in CA-G.R. SP No. 131624 became final and executory on November 1, 2014.] Meanwhile, on July 5, 2013, respondent [Abon] filed before the [RTC, Branch 28], a petition^[12] for reconstitution [(Petition for Reconstitution)] of the lost owner's duplicate of the OCT. [The case was docketed as LRC No. 6847.] Respondent [Abon] alleged in his petition that his father, Angel Abon, acquired the lot covered by said OCT under the CPS and [caused the subdivision of 135 square meters of the subject property, with TCT No. T-50359 covering the said subdivided portion of the subject property having been issued. Respondent Abon further alleged that his mother, Nellie T. Abon, left for Canada sometime in 2006 and entrusted to him the owner's duplicate of OCT No. 4480, which he kept in his cabinet. Respondent Abon then alleged that when his mother arrived in the Philippines in January 2013, she requested the former to bring out the owner's duplicate copy of OCT No. 4480 for purposes of an extrajudicial settlement of the estate of Angel. However, respondent Abon could not find the said owner's duplicate copy in his cabinets. Respondent Abon allegedly exerted diligent efforts to look for the owner's duplicate copy to no avail. Respondent Abon then executed an Affidavit of Loss^[13] and had the same registered with the RD. x x x

On October 4, 2013, the RTC, Branch 28 issued its Decision^[14] granting respondent Abon's petition, ordering the RD to issue a new owner's duplicate copy of OCT No. 4480 in lieu of the lost one.

The RTC, Branch 28's aforesaid Decision was not subjected to appeal. Hence, as indicated in the Certificate of Finality^[15] dated November 19, 2013, the Decision dated October 4, 2013 became final and executory.

On December 3, 2013, the petitioners Heirs of the Sps. Ramirez filed a Petition for Annulment of Judgment^[16] under Rule 47 of the Rules of Court before the CA, Former 14th Division. The case was docketed as CA-G.R. SP No. 132961.]

[The petitioners Heirs of the Sps. Ramirez] further allege that the CPS does not state the area bought by Angel Abon from the spouses Ramirez

and respondent [Abon]'s claim that the lot is owned by his parents is belied by the OCT itself which shows that the owners thereof are the spouses Ramirez. [The petitioners Heirs of the Sps. Ramirez] argue that if the intention under the CPS was to transfer the entire lot to Angel Abon then the title should have been totally cancelled and a new one issued in lieu thereof; however, the CPS was annotated on the OCT and the TCT was issued to cover only a 135-square meter portion of the lot.

[The petitioners Heirs of the Sps. Ramirez] finally contend that the [RTC, Branch 28] abused its discretion in granting respondent [Abon]'s petition for want of jurisdiction. Citing Sec. 12 of Republic Act (RA) No. 26 which requires that the petition for reconstitution shall be filed by the registered owner, his assigns, or any person having an interest in the property, [the petitioners Heirs of the Sps. Ramirez] contend that the [H]eirs of [S]pouses Ramirez were neither included as petitioners nor notified and this shows respondent [Abon]'s illicit desire to appropriate the entire lot. [The petitioners Heirs of the Sps. Ramirez] further allege that respondent [Abon] did not comply with the jurisdictional requirements of RA 26 thus: 1) proof of publication of the petition; 2) proof of posting of the petition; 3) name of the registered owner; 4) names of the occupants or persons in possession of the property; 5) names of the owners of adjoining properties and all other interested persons; and 6) the date when persons having interest must appear and file their objections to the petition.^[17]

The Ruling of the CA, Former 14th Division

In the assailed Decision, the CA, Former 14th Division denied the petitioners Heirs of the Sps. Ramirez' Petition for Annulment of Judgment for lack of merit. The dispositive portion of the assailed Decision reads:

WHEREFORE, the petition is **DISMISSED** for lack of merit.

SO ORDERED.^[18]

In sum, the CA, Former 14th Division held that there was no valid ground for the annulment of the RTC, Branch 28's Decision dated October 4, 2013, finding that "the RTC-Br. 28 had jurisdiction over the subject matter of the petition in LRC No. 6748."^[19]

Feeling aggrieved, the petitioners Heirs of the Sps. Ramirez filed their Motion for Reconsideration^[20] dated September 1, 2015, which was denied by the CA, Former 14th Division in the assailed Resolution.

Hence, the instant appeal before the Court.

Respondent Abon filed his Comment^[21] dated November 12, 2016, to which the petitioners Heirs of the Sps. Ramirez responded to with their Reply to Comment^[22] dated March 3, 2016.

Issue

Stripped to its core, the sole issue to be decided by the Court in the instant case is whether the CA, Former 14th Division erred in denying the petitioners Heirs of the Sps. Ramirez' Petition for Annulment of Judgment.

The Court's Ruling

Upon exhaustive review of the facts and the law surrounding the instant case, the Court finds the instant Petition meritorious.

It must be emphasized that the central issue in the instant case is whether there is any ground under Rule 47 to annul the RTC, Branch 28's final and executory Decision dated October 4, 2013, which ordered the RD to issue a new owner's duplicate copy of OCT No. 4480 in favor of respondent Abon.

Under Rule 47 of the Rules of Court, the remedy of annulment of judgment "is resorted to in cases where the ordinary remedies of new trial, appeal, petition for relief from judgment, or other appropriate remedies are no longer available through no fault of the petitioner, and is based on only two grounds: extrinsic fraud, and lack of jurisdiction or denial of due process."^[23] According to Section 3 of Rule 47, if based on extrinsic fraud, the action must be filed within four (4) years from its discovery; and if based on lack of jurisdiction, before it is barred by laches or estoppel.

In the instant case, the petitioners Heirs of the Sps. Ramirez maintain that the RTC, Branch 28 ***did not acquire jurisdiction*** over LRC Case No. 6847.

Jurisprudence holds that **Section 109 of Presidential Decree No. (PD) 1529** "is the law applicable in petitions for issuance of new *owner's duplicate* certificates of title which are lost or stolen or destroyed."^[24]

To clarify, in the instant case, what has been lost is the owner's duplicate copy of the subject OCT, and not the original copy of the OCT on file with the RD. As held in *Billote v. Solis*,^[25] "[a] reading of the provisions clearly reveals that Sections 18 and 19 of RA 26 applies only in cases of reconstitution of lost or destroyed *original* certificates of title on file with the Register of Deeds, while Section 109 of PD 1529 governs petitions for the issuance of new owner's *duplicate* certificates of title which are lost or destroyed."^[26] Hence, the petitioners Heirs of the Sps. Ramirez' original position in their Petition for Annulment of Judgment that RA 26 applies in the instant case, a theory they entirely abandoned in the instant Petition, is incorrect.

Section 109 of PD 1529, which is the applicable law in the instant case, reads:

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.^[27]

As explained by the CA, Former 14th Division in the assailed Decision, the requirements for the replacement of a lost owner's duplicate certificate of title can be summarized in the following manner:

The requirements for the replacement of lost owner's duplicate certificate of title may be summarized, thus: a) the registered owner or other person in interest shall send notice of the loss or destruction of the owner's duplicate certificate of title to the Register of Deeds of the province or city where the land lies as soon as the loss or destruction is discovered; b) the corresponding petition for the replacement of the lost or destroyed owner's duplicate certificate shall then be filed in court and entitled in the original case in which the decree of registration was entered; c) the petition shall state under oath the facts and circumstances surrounding such loss or destruction; and d) the court may set the petition for hearing after due notice to the Register of Deeds and all other interested parties as shown in the memorandum of encumbrances noted in the original or transfer certificate of title on file in the office of the Register of Deeds; and e) after due notice and hearing, the court may 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 or destroyed certificate and shall in all respects be entitled to the same faith and credit as the original duplicate.^[28]

In the instant case, it is not disputed that respondent Abon sent a notice of loss of the owner's duplicate certificate of the subject OCT to the RD in the form of an Affidavit of Loss dated June 3, 2013 executed by respondent Abon under oath,