

## FIRST DIVISION

[ G.R. No. 215009, January 23, 2017 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. CARMEN SANTORIO GALENO, RESPONDENT.**

### DECISION

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated June 27, 2013 and the Resolution<sup>[3]</sup> dated September 17, 2014 rendered by the Court of Appeals (CA) in CA-G.R. CV No. 02085, affirming the Orders dated October 13, 2006<sup>[4]</sup> and January 22, 2007<sup>[5]</sup> of the Regional Trial Court of Dumangas, Iloilo, Branch 68 (RTC), which allowed the correction of the area of Lot No. 2285 in Original Certificate of Title (OCT) No. 46417 from 20,948 square meters to 21,298 square meters.

#### The Facts

On September 2, 2003, respondent Carmen Santorio Galeno (respondent) filed a petition<sup>[6]</sup> for correction of the area of Lot No. 2285 covered by OCT No. 46417, Dingle Cadastre (subject property) before the RTC. She alleged therein that she is one of the co-owners of the subject property by virtue of a Deed of Sale<sup>[7]</sup> dated July 6, 1962. The survey and subdivision of the subject property was duly approved by the Department of Environment and Natural Resources (DENR) per its Approved Subdivision Plan of Lot No. 2285.<sup>[8]</sup>

Respondent further alleged that when she and her co-owners had the subject property resurveyed for the purpose of partition, they discovered a discrepancy in the land area of the subject property as appearing in OCT No. 46417,<sup>[9]</sup> in that the title reflects an area of 20,948 square meters, while the Certification<sup>[10]</sup> issued by the DENR Office of the Regional Technical Director, Lands Management Services, shows an area of 21,298 square meters. Hence, she sought to correct the area of the subject property in order to avoid further confusion, and claimed to have notified the adjoining owners.<sup>[11]</sup>

There being no opposition to the petition, the RTC allowed the presentation of respondent's evidence *ex parte* before the Branch Clerk as well as for the satisfaction of the jurisdictional requirements.<sup>[12]</sup>

#### The RTC Ruling

In an Order<sup>[13]</sup> dated October 13, 2006, the RTC granted the petition upon a finding that respondent was able to substantiate the allegations in her petition to warrant a

correction of the area of the subject property. Hence, it directed the Register of Deeds of the Province of Iloilo to correct such area in OCT No. 46417 from 20,948 to 21,298 square meters.<sup>[14]</sup>

Herein petitioner Republic of the Philippines (petitioner), through the Office of the Solicitor General (OSG), filed a motion for reconsideration claiming that the adjoining owners had not been notified, stressing that such notice is a jurisdictional requirement.<sup>[15]</sup> In the Order<sup>[16]</sup> dated January 22, 2007, the RTC denied the motion, finding that a Notice of Hearing<sup>[17]</sup> was sent to the adjoining owners. As such, respondent was able to prove compliance with the said jurisdictional requirement.<sup>[18]</sup>

Aggrieved, petitioner appealed to the CA.<sup>[19]</sup>

### **The CA Ruling**

In a Decision<sup>[20]</sup> dated June 27, 2013, the CA affirmed the RTC Order. It found that respondent, by a preponderance of evidence, was able to prove, based on the records of the proper government authority, *i.e.*, the Office of the Technical Director, Land Management Services of the DENR, that the true and correct area of the subject property was 21,298 square meters as shown in the approved plan. Moreover, petitioner failed to rebut with contrary evidence respondent's claim that she and her co-owners followed the boundaries in the technical description of OCT No. 46417 when they caused its resurvey. In fact, no proof had been adduced to show that the boundaries had been altered. Also, the CA pointed out that none of the adjoining owners, who were properly notified of the proceedings and who stand to be adversely affected by the change in the land area of the subject property, objected to respondent's petition.<sup>[21]</sup>

Petitioner's motion for reconsideration<sup>[22]</sup> was denied in a Resolution<sup>[23]</sup> dated September 17, 2014; hence, this petition.

### **The Issue Before the Court**

The issue advanced for the Court's resolution is whether or not the CA erred in upholding the correction of the area of the subject property in OCT No. 46417.

### **The Court's Ruling**

The petition is meritorious.

A scrutiny of the evidence marked and formally offered by respondent before the court *a quo* shows that the former failed to prove that there was sufficient basis to allow the correction of the area of the subject property in OCT No. 46417 from 20,948 square meters to 21,248 square meters.

Records reveal that respondent offered in evidence the following documents: (a) the Certification<sup>[24]</sup> issued by a certain Althea C. Acevedo (Acevedo), Engineer IV, Chief of the Technical Services Section of the Office of the Regional Technical Director, Land Management Services of the DENR in Iloilo City, which states that "the true

and correct area of [L]ot 2285, Cad. 246 Dingle Cadastre is 21,928 square meters;" (b) the technical description<sup>[25]</sup> of Lot No. 2285, a copy of which was certified by Ameto Caballero (Caballero), Chief of the Surveys Division, while another copy was certified correct by Acevedo; and (c) the approved subdivision plan of Lot No. 2258, <sup>[26]</sup> certified by Rogelio M. Santome (Santome), Geodetic Engineer; Alfredo Muyarsas (Muyarsas), Chief of the Regional Surveys Division, and Edgardo R. Gerobin (Gerobin), OIC, Regional Technical Director of the Land Management Services, DENR. On the strength of these pieces of evidence, respondent sought a reconciliation of the area of the subject property with the records of the DENR.

Unfortunately, the foregoing documentary evidence are not sufficient to warrant the correction prayed for. The Court cannot accord probative weight upon them in view of the fact that the public officers who issued the same did not testify in court to prove the facts stated therein.

In *Republic v. Medida*,<sup>[27]</sup> the Court held that certifications of the Regional Technical Director, DENR cannot be considered *prima facie* evidence of the facts stated therein, holding that:

Public documents are defined under Section 19, Rule 132 of the Revised Rules on Evidence as follows:

(a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;

(b) Documents acknowledged before a notary public except last wills and testaments; and

(c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

Applying Section 24 of Rule 132, the record of public documents referred to in Section 19(a), when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record, or by his deputy x x x.

Section 23, Rule 132 of the Revised Rules on Evidence provides:

"Sec. 23. *Public documents as evidence.* - Documents consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts stated therein. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter."

The CENRO and **Regional Technical Director, FMS-DENR, certifications [do] not fall within the class of public documents contemplated in the first sentence of Section 23 of Rule 132.** The certifications do not reflect "entries in public records made in the performance of a duty by a public officer," such as entries made by the