

THIRD DIVISION

[G.R. No. 187892, January 14, 2015]

UNGAY MALOBAGO MINES, INC. PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

DECISION

PERALTA, J.:

Assailed in this petition for review on *certiorari* is the Decision^[1] dated January 21, 2009 and the Resolution^[2] dated May 7, 2009 of the Court of Appeals (CA) in CA-G.R. CV No. 88210.

The antecedent facts are as follows:

On April 16, 2004, petitioner Ungay Malobago Mines, Inc. filed with the Regional Trial Court (RTC) of Legaspi City, a verified petition^[3] seeking the reconstitution of Original Certificate of Title (OCT) No. 4784 of the Cadastral Survey of Albay, pursuant to the provisions of Republic Act (RA) 26^[4] and Presidential Decree (PD) No. 1529.^[5] The case was docketed as LRA Case No. RT-2720 and raffled off to Branch 4. In its petition, petitioner alleged: that it is the registered owner of a mining patent covered by OCT No. 4784 which was issued by then President Diosdado Macapagal on July 20, 1962 and entered in the Registry of Deeds of the Province of Albay on September 4, 1962; that sometime in April 2004, it requested for a certified true copy of OCT No. VH-4784 from the Register of Deeds of Albay, but despite a diligent search, the said copy could not be located by the said office leading one to believe that the same was permanently lost or destroyed; that the property was free from all liens and encumbrances of any kind whatsoever and there existed no deeds or instruments affecting the same which had been presented for or pending registration with the Register of Deeds of Albay; and that the owner's duplicate of OCT No. VH-4784 which would serve as a basis for the reconstitution, was attached thereto.

During the initial hearing, petitioner, through counsel, showed compliance with the jurisdictional requirements. Trial thereafter ensued. The Republic opposed the petition.

On July 17, 2006, the RTC rendered its decision^[6] dismissing the petition.

The RTC found that there was no factual and legal basis to warrant the reconstitution of petitioner's alleged lost certificate of title. It found that while petitioner submitted a purported owner's duplicate of OCT No. VH-4784, the same was not signed by then Register of Deeds, Ramon Balana, both on the face and the dorsal side thereof; that the owner's duplicate certificate being an original duplicate, should contain the original signature of the Register of Deeds just like the original

certificate which should have been on file with the Register of Deeds; that even if the said duplicate had the documentary seal of the office, it was considered a scrap of paper without any probative value since the Register of Deeds as an *ex-officio* mining recorder has no signature authenticating said duplicate; and to rule otherwise would make the signature of the Register of Deeds a useless dispensable ceremony in a Torrens title which would open the floodgates to fraud which would destroy the registration system. The RTC further ruled that since petitioner is not the owner of the surface land which had already been titled to Rapu Rapu Minerals, Inc. and petitioner is claiming only the minerals underneath, it is not entitled to the certificate of title over its mining patent.

Petitioner filed its appeal with the CA. After the parties had filed their respective pleadings, the case was then submitted for decision.

On January 21, 2009, the CA issued its assailed decision, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the 17 July 2006 decision of the Regional Trial Court of Legaspi City (Branch 4) in LRA Case No. RT-2720 dismissing the petition of Ungay Malobago Mines, Inc. for the reconstitution of OCT No. VH-4784 is **AFFIRMED.**^[7]

In so ruling, the CA found that since petitioner is not the registered owner of the land covered by OCT No. VH-4784 and citing our earlier ruling in *Ungay Malobago Mines, Inc v. Intermediate Appellate Court (IAC)*^[8] where we declared that as a grantee of a mining patent, petitioner did not become the owner of the land where the minerals are located, hence, it has no personality to file for the reconstitution of lost or destroyed certificate of title. The CA ruled that petitioner's mining patent did not qualify as an interest in property as contemplated by RA No. 26 so as to give petitioner the authority under the law to initiate a petition for the reconstitution of said OCT. The CA affirmed the RTC's findings that the owner's duplicate of OCT No. VH-4784 presented by petitioner was insufficient to serve as a basis for the reconstitution of the original of said OCT because of the absence of the signature of the Register of Deeds.

Petitioner filed a motion for reconsideration, which the CA denied in its Resolution dated May 7, 2009.

Petitioner is now before us raising the following issues:

WHETHER OR NOT THE COURT OF APPEALS, IN AFFIRMING THE DISMISSAL OF RECONSTITUTION, ERRED IN ITS APPRECIATION OF THE SUBJECT OF RECONSTITUTION – WHICH IS PETITIONER'S MINING PATENT OR RIGHT TO EXPLORE AND EXTRACT MINERALS WITHIN THE LAND DESCRIBED IN THE TITLE – THE TITLE ITSELF (OCT) SERVING MERELY AS AN INSTRUMENT OF REGISTRATION AS THIS WAS THE PROCEDURE FOR REGISTRATION OF MINING PATENTS AT THE TIME.

WHETHER OR NOT THE ABSENCE OF THE SIGNATURE OF THE REGISTER OF DEEDS IN THE ORIGINAL CERTIFICATE OF TITLE REGISTERING THE MINING PATENT – EVEN IF DUE ONLY TO OBVIOUS INADVERTENCE AND ABSENT ANY FRAUD – HAS THE EFFECT OF RENDERING THE ENTIRE

INSTRUMENT VOID, INCLUDING THE GRANT OF MINING PATENT ITSELF CONTAINED THEREIN, AS TO PREVENT RECONSTITUTION OF THE SAME.

[9]

Anent the first issue, petitioner claims that the CA erred in categorizing the reconstitution in this case as reconstitution of ownership of the property itself (surface ownership), when in law and in fact, it is really a reconstitution of evidence of the grant by the state in favor of petitioner of the right to explore and extract mineral deposits within the area described in the original certificate of title; that the concept and nature of the right to explore and mine a piece of land (referred to as mining patent) is separate and distinct from right and title of ownership over the property itself and are not inconsistent to and exclusive of each other.

The Torrens title is conclusive evidence with respect to the ownership of the land described therein, and other matters which can be litigated and decided in land registration proceedings.^[10] When the Torrens Certificate of Title has been lost or destroyed, RA No. 26 provides for a special procedure for the reconstitution of such title. Sections 5 and 10 of RA No. 26 state:

Section 5. Petitions for reconstitution from sources enumerated in sections 2(a), 2(b), 3(a), 3(b), and/or 4(a) of this Act may be filed with the register of deeds concerned by the registered owner, his assigns, or other person having an interest in the property. The petition shall be accompanied with the necessary sources for reconstitution and with an affidavit of the registered owner stating, among other things, that no deed or other instrument affecting the property had been presented for registration, or, if there be any, the nature thereof, the date of its presentation, as well as the names of the parties, and whatever the registration of such deed or instrument is still pending accomplishment. If the reconstitution is to be made from any of the sources enumerated in section 2(b) or 3(b), the affidavit should further state that the owner's duplicate has been lost or destroyed and the circumstances under which it was lost or destroyed. Thereupon, the register of deeds shall, no valid reason to the contrary existing, reconstitute the certificate of title as provided in this Act.

Section 10. Nothing hereinbefore provided shall prevent any registered owner or person in interest from filing the petition mentioned in section five of this Act directly with the proper Court of First Instance, based on sources enumerated in sections 2(a), 2(b), 3(a), 3(b), and/or 4(a) of this Act: Provided, however, That the court shall cause a notice of the petition, before hearing and granting the same, to be published in the manner stated in section nine hereof: And provided, further, That certificates of title reconstituted pursuant to this section shall not be subject to the encumbrance referred to in section seven of this Act.

Thus, the persons who can file the petition for reconstitution of a lost certificate are the registered owner, his assigns or persons in interest in the property. In this case, petitioner admitted that it was not the owner of the land on which the mining patent was issued as the same was owned and registered in the name of Rapu Rapu Minerals Inc. Thus said petitioner's witness, Atty. Cela Magdalen A. Agpaoa, to wit:

Q. Can you tell the [H]on. Court where is this mining patent situated or located, if you know?

A. This mining patent covers several parcels of land situated in the various barangays in Rapu Rapu, more concentrated in [B]arangay Pagcolbon, Rapu Rapu, Albay.

Q. You want to tell the [H]on. Court that this mining patent cannot be seen on the surface? Is that what you want to tell the [H]on. Court, Madam Witness?

A. That is right, because this mining patent is a right over minerals found beneath the surface.

Q. I see. I'm showing to you again the Report made by the Land Registration Authority which forms part of the records which is now marked as Exhs "J" and "J-1" consisting of two (2) pages. A copy of which was sent to Atty. Cela Magdalen A. Agpaoa, collaborating counsel. My question to you is this, are you this Atty. Cela Magdalen Agpaoa, the collaborating counsel?

A. Yes, I am.

Q. Did you receive a copy of this report?

A. Yes, I do (sic).

Q. Did you read the contents of this report?

A. Yes, I do (sic).

Q. I am inviting your attention to this **Exh. "J"**, par. (2) of the technical description of the parcel of land described on Plan LP- 714-A inscribed on the certified xerox copy of the Original Certificate of Title No. VH-4784 appears to overlap Lot Nos. 984, 985, 986 1007, 1008, 1009, 1014, Pls- 858-B, of the Rapu Rapu Public Land Subdivision.

My question to you is this, are you aware of these lots mentioned in this report?

A. Yes, I am sir.

Q. Why? Can you tell the [H]on. court why you are aware of all these lots, which this mining patent appears to overlap all these lots, which I mentioned?

A. The various parcels of land mentioned in VH No. 4784 are actually surface lands, actual parcels of land which have already been acquired by the petitioner's activated (sic) corporation for purposes of consolidating the surface rights and the mining rights, referred to in VH No. 4784.

Q. Now, another question, you said that these lots mentioned here are the surface lots, am I correct?

A. Yes, sir.

Q. Tell the [H]on. Court since these are surface lots, do you know who owns now all these lots you mentioned in this report, madam witness?

A. Yes sir, I do.

Q. Tell the [H]on. Court who is now the owner of these lots?