

THIRD DIVISION

[G. R. No. 177836, September 04, 2009]

**EDWINO A. TORRES (DECEASED), REPRESENTED AND
SUBSTITUTED BY ALFONSO P. TORRES III AND FATIMA P.
TORRES, SON AND DAUGHTER, RESPECTIVELY, OF DECEASED
PETITIONER, PETITIONERS, VS. BALLIGI V. RODELLAS,
RESPONDENT.**

DECISION

CHICO-NAZARIO, J.:

This Petition for Review on *Certiorari*,^[1] under Rule 45 of the Revised Rules of Court, seeks the review of the 29 November 2006^[2] and 2 May 2007^[3] Resolutions of the Court of Appeals in CA-G.R. SP No. 81305, entitled "Edwino A. Torres (deceased) represented and substituted by Alfonso P. Torres III, Fatima P. Torres, son and daughter of deceased petitioner," which, respectively, dismissed the petition assailing the decision of the Office of the President, and denied the subsequent motion for reconsideration thereof.

The root of the present controversy is a 111-square meter parcel of alienable and disposable residential land, described as Lot No. 4, Sgs-04-000316-D, located at Poblacion, San Jose, Occidental Mindoro (subject property).

Respondent Balligi V. Rodellas (Balligi) and her family began occupying the subject property sometime in 1967. They built thereon a residential house (the Rodellas' house), initially made of light materials, but eventually renovated and replaced using stronger materials.

In October 1986, Balligi filed a Miscellaneous Sales Application (MSA) for the subject property with the Department of Environment and Natural Resources (DENR). Said application was docketed as MSA No. (IV-18) 3524.

In 1989, Balligi and her family left Occidental Mindoro for Manila in order to find work. On 1 October 1989, Balligi left the country to join her husband in Saudi Arabia as an Overseas Filipino Worker (OFW). In the meantime, the house built by Balligi and her family on the subject property was left in the care and possession of her relatives, namely, her half-brother, Aster Vallejos; her sister, Bituin Vallejos; her cousin-in-law, Sonia Jaravata; her sister and brother-in-law, spouses Inanama Vallejos (Inanama) and Oscar Gallardo; Milagros Olarte; and Ildefonso Ruiz and family.

Sometime thereafter, still in 1989, petitioner Edwino A. Torres (Edwino) and his spouse moved into the house on the subject property, occupying the portion vacated by Aster Vallejos. Edwino claimed that Balligi already sold him the subject property and the house built thereon for P60,000.00, as evidenced by an *Affidavit of*

Relinquishment/Sale of Right supposedly signed by the parties thereto and notarized on 9 October 1989. From that time on, Edwino collected monthly rental of P300.00 from the other occupants of the house.

On the basis of the *Affidavit of Relinquishment/Sale of Right*, Edwino filed with the DENR an MSA in his own name for the subject property, docketed as MSA No. (IV-18) 3780.

After conducting an investigation and ocular inspection, Wilfredo M. Pagua, Land Investigator, DENR, issued a *Report* on 10 June 1991, recommending that Edwino's MSA be given due course. On 15 July 1991, the Provincial Environment and Natural Resources Officer (PENRO) issued an *Order* 1) rejecting Balligi's MSA No. (IV-18) 3524; and 2) giving due course to Edwino's MSA No. (IV-18) 3780.

In 1992, respondent Balligi's son, Eugenio V. Rodellas, Jr. (Eugenio), returned to Occidental Mindoro. While there, he came to learn that Edwino claimed ownership of the subject property and the house thereon by virtue of the *Affidavit of Relinquishment/Sale of Right*.

On 8 December 1992, Eugenio, alleging to act on behalf of his mother, Balligi, but without presenting any written authority from the latter, filed before the Community Environment and Natural Resources Office (CENRO), San Jose, Occidental Mindoro, a *Protest* against Edwino's MSA No. (IV-18) 3780. Eugenio prayed, *inter alia*, for the cancellation of said MSA on the ground that the *Affidavit of Relinquishment/Sale of Right*, the very basis of the application, was a forged document. Eugenio insisted that Balligi never entered into any sale of the subject property and house, much less signed the purported *Affidavit of Relinquishment/Sale of Right* on 9 October 1989, considering that Balligi and her husband were in Saudi Arabia at that time. Eugenio's Opposition to Edwino's MSA was docketed as DENR Case No. 5438.

On 8 March 1993, Eugenio and his aunt, Inanama, filed an *Amended Protest* against Edwino's MSA No. (IV-18) 3780. Attached to the Amended Protest was a *Special Power of Attorney*, which Balligi executed in favor of Eugenio and Inanama, and acknowledged before Vice Consul Alimatar M. Garangan, Philippine Embassy, Riyadh, Kingdom of Saudi Arabia in January 1993.

In an *Order*^[4] dated 4 June 1993, Antonio G. Principe, Regional Executive Director, Regional Office (RO) No. IV, DENR, dismissed the protests against Edwino's MSA No. (IV-18) 3780 for lack of merit, to wit:

WHEREFORE, in view of the foregoing, the Protest as well as the Amended Protest is (sic) hereby as it is ordered DISMISSED for lack of merit and whatever amount paid on account thereof is forfeited in favor of the government. The MSA No. (IV-18) 3780 of Edwino A. Torres is hereby given further due course.

According to DENR-RO No. IV, neither Eugenio nor Inanama had the personality to represent Balligi. It credited no value to the *Special Power of Attorney* in favor of Eugenio and Inanama, as the "document itself was highly questionable. Close scrutiny of the same shows that the authentication was done on the 25th day of

January 1993 [even] before the execution of the said document by Balligi Letty V. Rodellas on January 26, 1993."^[5] DENR-RO No. IV also mentioned in its Order that it was not in a position to determine and resolve the genuineness and due execution of the Affidavit of Relinquishment/Sale of Right presented by Edwino, the same being within the jurisdiction of the courts.

On 21 June 1993, Balligi, still through her son, Eugenio, filed a *Request for Extension of Time* to file a motion for reconsideration of the 4 January 1993 Order of DENR-RO No. IV. However, DENR-RO No. IV, in an Order dated 10 September 1993, denied Balligi's request for extension, because it was supposedly filed beyond the 15-day reglementary period within which to appeal the assailed order. The dispositive portion of the 10 September 1993 Order reads:

WHEREFORE, in view of the foregoing premises, the Motion for Reconsideration dated June 21, 1993 filed by herein [petitioner Balligi], represented by Eugenio V. Rodellas, Jr. and Inanama V. Gallardo, is hereby as it is ordered DENIED for lack of merit.

Consequently thereto, the Order dated June 4, 1993 issued in the above-entitled case is deemed final and executory.^[6]

Determined, respondent Balligi, who had arrived back in the Philippines, herself filed, on 15 April 1994, another *Opposition/Protest* against petitioner Edwino's MSA No. (IV-18) 3780.

On 6 June 1994, another Order was issued by the DENR-RO No. IV directing the conduct of an investigation of the matters alleged in Balligi's *Opposition/Protest*; and holding the processing of Edwino's MSA No. (IV-18) 3780 in abeyance.

After an evaluation of the record of the case, DENR-RO No. IV dismissed respondent Balligi's *Opposition/Protest* in an Order dated 13 December 1995, the *fallo* of which states:

WHEREFORE, premises considered, the instant "OPPOSITION AND/OR PROTEST" filed by Balligi V. Rodellas is hereby, as it is ordered, DISMISSED for lack of merit. Let the MSA No. (IV-18) 3780 of Edwino A. Torres be now given further due course leading to the issuance of patent therefor.^[7]

Citing its 10 September 1993 Order, DENR-RO No. IV reasoned that Balligi's *Opposition/Protest* was barred by *res judicata*.

Balligi moved for the reconsideration of the Order dated 13 December 1995 of DENR-RO No. IV before the Office of the DENR Secretary. Her Motion for Reconsideration, docketed as DENR Case No. 7771, was denied by the DENR Secretary in an Order^[8] dated 29 June 1998. The DENR Secretary held that "there is no showing that she, [herein respondent Balligi] Rodellas, ever filed a complaint with the proper forum, *i.e.*, the Court, against the herein [petitioner Edwino]

involving the alleged falsified and spurious document. Mere allegation that such document is spurious and forged do not make such document spurious and a forgery."^[9]

Undaunted, Balligi filed an appeal with the Office of the President, docketed as O.P. Case No. 98-8537.

In a *Decision*^[10] promulgated on 5 August 2003, the Office of the President reversed and set aside the assailed orders of the DENR Secretary and the DENR-RO No. IV. The Office of the President adjudged that the principle of *res judicata* was not applicable to the facts of O.P. Case No. 98-8537, given that:

A careful review of the order of June 4, 1993, which the DENR claims constitutes a bar to subsequent litigation, would reveal that the same does not comply with the third requisite enumerated above, that the judgment must be on the merits. It will be recalled that the Regional Executive Director (RED) refused to rule on the main issue raised in the protest, which is the alleged forged and spurious Affidavit of Relinquishment/Sale of Right, claiming that his Office is not in the position to determine and resolve the genuineness and due execution of the aforesaid document; and claiming further that "the said protest should not have been entertained in the first place considering that upon its filing, Eugenio V. Rodellas Jr. has no personality to represent Balligi V. Rodellas."

The Office of the President opined that "the DENR should have applied *res ipsa loquitur*" instead, since:

It should have been very clear that the alleged Affidavit of Relinquishment/Sale of Right is nothing but a forgery. [Respondent Balligi] was in the Kingdom of Saudi Arabia at the time she was supposed to have executed the document, as duly evidenced by the entries in her passport. She left the Philippines on October 1, 1989, while the Affidavit is dated October 9, 1989 x x x. In fact, at the inception of the case, she was still there in Saudi Arabia, which was why the RED did not want to recognize the legal personality of her son to represent her. If the DENR knew that appellant was out of the country all along, how can it even entertain the thought that she was the one who signed the document in Occidental Mindoro? It is important to note that [Edwino] never questioned the veracity of the entries in [Balligi]'s passport.^[11]

The Office of the President disposed:

WHEREFORE, the decision of the Acting Secretary of Environment and Natural Resources dated September 19, 1997, and the order dated June 29, 1998, reiterating it, are hereby REVERSED and SET ASIDE. The Department of Environment and Natural Resources is hereby ordered to reject the Miscellaneous Sales Application No. (IV-18) 3780 of Edwino A.

Torres and reinstate Miscellaneous Sales Application No. (IV-18) 3524 of Balligi V. Rodellas, and give due course thereto. All persons occupying the subject property by virtue of the Miscellaneous Sales Application of Edwino A. Torres, his heirs and assigns, are hereby ordered to vacate the same.^[12]

Atty. Alexander Restor (Atty. Restor), Edwino's counsel, received a copy of the 5 August 2003 Decision of the Office of the President on 29 August 2003. On 15 September 2003, Atty. Restor filed a Motion for Reconsideration of said Decision, and at the same time, manifested that his client, Edwino, had since passed away, but without actually intimating the exact date of the latter's death.

In an Order dated 27 October 2003, the Office of the President ruled that the Motion for Reconsideration filed by Atty. Restor was -

DISMISSED for being filed out of time and for lack of personality of the movant.^[13]

According to the Office of the President, Edwino's death extinguished his agency relationship with Atty. Restor. Hence, Atty. Restor had no more authority to continue to act on Edwino's behalf. In addition, the Motion for Reconsideration was filed by Atty. Restor beyond the 15-day reglementary period.

On 16 November 2003, Edwino's representatives and legal heirs executed a *Letter of Appointment*^[14] "[appointing] and [engaging] the legal services of Atty. Alexander Restor in O.P. Case No. 988537 before the Office of the President and to further represent [them] in the event that the afore-mentioned case is appealed to the Court of Appeals/Supreme Court."

Subsequently, on 9 December 2003, Atty. Restor filed, on behalf of Edwino, represented and substituted by the latter's son and daughter, Alfonso P. Torres III (Alfonso) and Fatima P. Torres (Fatima), respectively, a Petition for Review with the Court of Appeals, challenging the 5 August 2003 Decision and 27 October 2003 Order of the Office of the President. Their Petition was docketed as CA-G.R. SP No. 81305.

In a Resolution promulgated on 29 November 2006, the appellate court dismissed the Petition in CA-G.R. SP No. 81305, thus:

IN VIEW OF THE FOREGOING, the petition is hereby DISMISSED.^[15]

The Court of Appeals affirmed the finding of the Office of the President that the 5 August 2003 Decision of the latter had long since attained finality in view of the late filing of Edwino's Motion for Reconsideration of the same. Moreover, the appellate court agreed that Atty. Restor had no personality to move for the reconsideration of the decision in question, and as a result, "no motion for reconsideration of the August 5, 2003 Decision of the Office of the President could have been considered