

## FIRST DIVISION

[ G.R. No. 130389, February 11, 2008 ]

**THE PHILIPPINE COTTON CORPORATION, Petitioner-Appellant,  
vs. NARAINDAS GAGOOMAL and ENGRACIO ANG, Respondents-  
Appellees,  
CHINA BANKING CORPORATION, Intervenor-Appellee.**

### DECISION

**AZCUNA, J.:**

This is a petition for review on *certiorari*<sup>[1]</sup> assailing the Decision<sup>[2]</sup> of the Court of Appeals (CA) promulgated on August 29, 1997 in CA-G.R. CV No. 50332.

The facts of record would indicate that Pacific Mills, Inc. (Pacific Mills) originally owned five parcels of land covered by Transfer Certificates of Title (TCT) Nos. 136640, 136441, 222370 and 134249. These properties were subsequently purchased by respondents on an installment basis from Pacific Mills on July 19, 1979.<sup>[3]</sup>

On June 23, 1983, petitioner filed a collection case against Pacific Mills before the Regional Trial Court (RTC) of Pasig, Branch 162 on the ground of alleged failure to fulfill its obligation under a contract of loan. After hearing, the trial court issued a writ of preliminary attachment in favor of petitioner. Thereafter, on August 17, 1983, the writ of preliminary attachment was annotated on TCT Nos. 136640, 136441, 222370 and 134249.

On December 27, 1985, the RTC of Pasig rendered a decision ordering Pacific Mills to pay its obligation under the loan agreement plus interest, penalty charges, attorney's fees and costs of suit. On appeal, the CA affirmed the decision of the trial court. Not satisfied with the judgment of the appellate court, Pacific Mills filed a petition for review before this Court.

During the pendency of the appeal or on June 11, 1988, the Quezon City Hall was razed by fire thereby destroying the records of the Registry of Deeds of Quezon City, including the TCTs of Pacific Mills.

Sometime in 1992, Pacific Mills filed a petition for reconstitution of the burned TCTs through administrative reconstitution, in accordance with Republic Act No. 6732.<sup>[4]</sup> On March 23, 1992, the Registry of Deeds of Quezon City issued to Pacific Mills the reconstituted TCTs, namely: No. RT-55702 (for TCT No. 136640), No. RT-55704 (for TCT No. 134249), No. RT-55703 (for TCT No. 136441) and No. RT-55705 (for TCT No. 222370). However, the aforesaid alleged annotations of the preliminary attachment in favor of petitioner were not incorporated in the reconstituted TCTs, but annotated therein was the sale made by Pacific Mills to respondents and their payment in full. On even date, the reconstituted TCTs were cancelled in favor of the

respondents. Respondents were given the following clean TCT Nos. 56683<sup>[5]</sup> (for RT-55703), 56684<sup>[6]</sup> (for RT-55702), 56685<sup>[7]</sup> (for RT-55704) and 56686<sup>[8]</sup> (for RT-55705).

On February 8, 1993, petitioner wrote the Registry of Deeds of Quezon City requesting for the annotation of the notice of levy, and, subsequently, the annotation of a favorable decision of this Court rendered on August 3, 1992, on the new TCTs issued to respondents.

On February 10, 1993, Samuel C. Cleofe, the Quezon City Register of Deeds, informed respondents that the letter-request for re-annotation of notice of levy had been entered in the Primary Entry Book 574/Volume 24, and asked them to surrender their owners' duplicate copies of TCT Nos. 56683 to 56686.<sup>[9]</sup>

Immediately upon receipt of the said letter, respondents verified the original copies of titles in the possession of the Registry of Deeds and discovered that the following annotations were included at the back of the titles: "Request for Re-Annotation of Notice of Levy" and "Letter Request for Annotation of Entry of Judgment of Supreme Court."

Thereafter, respondents filed on March 3, 1993, a Petition for the Cancellation of Annotations in Land Titles before the RTC of Quezon City, Branch 100, docketed as Civil Case No. Q-6056(93). Later on, petitioner was impleaded as an additional respondent, while China Banking Corporation filed a complaint-in-intervention for being a mortgagee of the real properties, together with all the improvements thereon.

On March 29, 1995, the trial court rendered judgment in favor of respondents. The dispositive portion of the decision reads:

WHEREFORE, premises above considered, there being no justification for the Quezon City Register of Deeds in making the annotation on petitioners' original TCT Nos. 56683 (RT-55703), 56684 (RT-55702), 56685 (RT-55748) and 56686 (RT-55705), said respondent is hereby ordered to DELETE therefrom the said annotation "request for annotation and the annotated Supreme Court decision against the Pacific Mills, Inc." and to desist from its request for petitioners to submit their owners duplicate of titles to annotate such request of the Philippine Cotton Corporation.

There being no justiciable issue in the complaint-in-intervention, let the annotations of a mortgage executed by petitioners on December 18, 1992 in favor of intervenor China Banking Corporation remain on petitioners' subject TCTs.

SO ORDERED.<sup>[10]</sup>

The trial court ratiocinated that:

Under the circumstances, respondent [the Registry of Deeds of Quezon City] should and could have properly refused such request instead of immediately annotating it. In the same light, "The Register of Deeds may

likewise properly refuse registration of an order attachment when it appears that the title involved is not in the name of the defendant and there is no evidence submitted to indicate that the said defendant has any present or future interest in the property covered by the titles." (Gotauco vs. Register of Deeds of Tayabas, 59 Phil. 756, 1934 and Geonanga vs. Hodges, 55 O.G. p. 2891, April 21, 1958). (Underscoring Supplied)<sup>[11]</sup>

Unsatisfied with the outcome of the case, petitioner filed a notice of appeal before the CA, contending that:

"THE REGISTER OF DEEDS OF QUEZON CITY HAS THE AUTHORITY TO RE-ANNOTATE THE NOTICE OF LEVY AND TO ANNOTATE THE ENTRY OF JUDGMENT OF THE SUPREME COURT ON TRANSFER CERTIFICATES OF TITLE NOS. 56683, 56684, 56685 AND 56686, ALL ISSUED IN THE NAME OF THE PETITIONERS-APPELLEES AS A RESULT OF AN ADMINISTRATIVE RECONSTITUTION OF TITLES."<sup>[12]</sup>

In its August 29, 1997 decision, the appellate court dismissed the appeal because the issue raised by the petitioner was a pure question of law, over which the CA had no jurisdiction.

Hence, this petition.

Petitioner presents the following assignment of errors:

#### FIRST ERROR

THE LOWER COURT ERRED IN NOT SUSTAINING THE AUTHORITY OF THE QUEZON CITY REGISTER OF DEEDS TO VALIDLY RE-ANNOTATE THE INCUMBRANCE/LIENS AND ANNOTATE THE SUPREME COURT DECISION ON THE ADMINISTRATIVELY RECONSTITUTED TRANSFER CERTIFICATES OF TITLES (TCTs) IN FAVOR OF PETITIONER-APPELLANT.

#### SECOND ERROR

THE LOWER COURT, IN CONSEQUENCE THEREOF, LIKEWISE ERRED IN ORDERING THE QUEZON CITY REGISTER OF DEEDS TO DELETE THE ANNOTATION THAT READS: "REQUEST FOR ANNOTATION AND THE ANNOTATED SUPREME COURT DECISION AGAINST PACIFIC MILLS, INC.", FROM PETITIONERS' ORIGINAL TCT NOS. 96683 [*sic*] (RT-55703), 56684 (RT-55702), 56685 (RT-55748) AND 56686 (RT-55705) AND TO DESIST FROM REQUESTING RESPONDENTS/APPELLEES TO SUBMIT THEIR OWNERS' DUPLICATE OF TITLES FOR ANNOTATION OF PETITIONER PHILIPPINE COTTON CORPORATION'S REQUEST.<sup>[13]</sup>

Petitioner asserts that a cursory reading of Section 71 of Presidential Decree No. 1529 shows that it is the ministerial duty of the Register of Deeds, in the matter of an attachment or other liens in the nature of involuntary dealing in registered land, to "send notice by mail to a registered owner requesting him to produce his duplicate certificate so that a memorandum of attachment or other lien may be made thereon." This provision, according to petitioner, actually applies whenever a writ of attachment has been issued by a court of competent jurisdiction after

hearing on the issuance of the said writ. The notice of attachment not having been dissolved, it was ministerial on the part of the Register of Deeds to record the notice on the TCTs he issued.

Petitioner would persuade this Court that it is the ministerial duty of the Register of Deeds to record any encumbrance or lien on respondents' existing TCTs. It cites, as proof of its supposition, Sections 10 and 71 of the Property Registration Decree (P.D. No. 1529), which are quoted as follows:

Section 10. *General functions of Registers of Deeds.* — The office of the Register of Deeds constitutes a public repository of records of instruments affecting registered or unregistered lands and chattel mortgages in the province or city wherein such office is situated.

It shall be the duty of the Register of Deeds to immediately register an instrument presented for registration dealing with real or personal property which complies with all the requisites for registration. He shall see to it that said instrument bears the proper documentary and science stamps and that the same are properly cancelled. If the instrument is not registrable, he shall forthwith deny registration thereof and inform the presenter of such denial in writing, stating the ground or reason therefor, and advising him of his right to appeal by *consulta* in accordance with Section 117 of this Decree.

x x x

Section 71. *Surrender of certificate in involuntary dealings.* – If an attachment or other lien in the nature of involuntary dealing in registered land is registered, and the duplicate certificate is not presented at the time of registration, the Register of Deeds, shall, within thirty-six hours thereafter, send notice by mail to the registered owner, stating that such paper has been registered, and requesting him to send or produce his duplicate certificate so that a memorandum of the attachment or other lien may be made thereon. If the owner neglects or refuses to comply within a reasonable time, the Register of Deeds shall *report the matter to the court*, and it shall, after notice, enter an order to the owner to produce his certificate at a time and place named therein, and may enforce the order by suitable process. (Underscoring supplied)

The Court is not in accord with the stance of petitioner. Section 10 of P.D. No. 1529 merely involves the general functions of the Register of Deeds, while Section 71 thereof relates to an attachment or lien in a registered land in which the duplicate certificate was ***not presented at the time of the registration of the said lien or attachment.***

A special law specifically deals with the procedure for the reconstitution of Torrens certificates of title lost or destroyed. Under Section 4 of Act No. 26:<sup>[14]</sup>

Liens and other encumbrances affecting a destroyed or lost certificate of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order: