

THIRD DIVISION

[G.R. No. 143786, October 17, 2008]

SPOUSES LOURDES V. RUTAQUIO AND LEONARDO LIWANAG, AND JULIAN VILLAFLOR, REPRESENTED BY HIS CHILDREN, ESTER V. PUJALTE, FILIPINA VILLAFLOR MARIA GEMMA VILLAFLOR AND REY CONSTANTINO VILLAFLOR, PETITIONERS, VS. COURT OF APPEALS, MAURA PENAMORA, AND MODESTO, ROLANDO, ISABELITA AND CRISELDA, ALL SURNAMED LOPEZ; VIRGINIA, CARMEN, ALICIA, PURIFICACION, ESMENIA, ELIZABETH JORGE AND JABES ALL SURNAMED PENAMORA; AND ALFONSO, GILDA, EUGENIO, ROGELIO, EUGENIA, LORENZO AND VENANCIO, ALL SURNAMED VELUZ, RESPONDENTS.

DECISION

NACHURA, J.:

Before us is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to review and set aside the Resolution^[1] of the Court of Appeals (CA), Former Ninth Division^[2] dated June 23, 2000 in CA-G.R. CV No. 59290.

The antecedent facts are as follows:

This case stemmed from Civil Cases Nos. 8963 and 8964 instituted by private respondents on December 15, 1982 before the then Court of First Instance of Quezon, Ninth Judicial District, Lucena City, against Spouses Lourdes V. Rutaquio and Leonardo Liwanag, and Julian Villaflor, respectively. Later, the cases were transferred to the Regional Trial Court (RTC), Branch 65, Infanta, Quezon, and were docketed as Civil Cases Nos. 8-Inf. and 9-Inf., respectively.

Civil Case No. (8963) 8-Inf. is an action to declare the Free Patent and the Original Certificate of Title (OCT) No. P-6133 of the Register of Deeds of the Province of Quezon in the name of Lourdes V. Rutaquio null and void and to order the said Register of Deeds to cancel OCT No. P-6133. Civil Case No. (8964) 9-Inf., on the other hand, is an action to declare Free Patent No. 292246 and OCT No. P-12522 of the same Register of Deeds in the name of Julian Villaflor null and void and to order the Register of Deeds to cancel OCT No. P-12522.

These cases were anchored mainly on the Decision^[3] dated May 2, 1970 of the then Court of First Instance of Quezon, Ninth Judicial District, Lucena City, in Civil Case No. 428, entitled "Maura Penamora, et al. v. Irene Rutaquio, et al.," the dispositive portion of which reads--

WHEREFORE, premises considered, judgment is rendered as follows:

(1) Declaring the document entitled "Kasulatan ng Bilihang Mabibiling

Muli" dated August 21, 1931 an Equitable Mortgage;

(2) Declaring the plaintiffs, excluding Maura Penamora, co-owners and rightful possessors of the land in proportion of one-twenty fourth (1/24) for each of the plaintiffs Virginia, Carmen, Alicia, Purificacion, Esmenia, Elizabeth, Jorge and Jabes, all surnamed Penamora; one-twenty fourth (1/24) for each of the plaintiffs Gilda, Eulogio, Eugenia, Lorenzo, Felimon, Victor, Cipriano and Venancio, all surnamed Veluz; and one-twelfth (1/12) for each of the plaintiffs Modesto, Rolando, Isabelita and Griselda, all surnamed Lopez;

(3) Ordering the plaintiffs, in the proportion in which they succeed, to pay the defendants the mortgage loan of P930.00 within thirty (30) days from the finality of this decision; and

(4) Dismissing the counterclaim of the defendants.

SO ORDERED.^[4]

On appeal, docketed as CA-G.R. No. 49559-R, the CA affirmed in its Decision^[5] dated October 16, 1979, the above Decision, but modified paragraph 3 thereof as follows:

We modify the above-quoted portion of the decision in the following manner:

3. Ordering the plaintiffs in the proportion in which they succeed, to pay the defendants the mortgage loan of P930.00 within ninety (90) days from the finality of this decision. If the plaintiff will fail to pay the said sum of P930.00 within the said period, the properties subject of the equitable mortgage shall be ordered sold at public auction, the proceeds of such sale to realize the sum of money aforesaid.^[6]

The Decision in Civil Case No. 428, as modified by the CA, became final and executory on August 24, 1980 as shown by the Entry of Judgment^[7] in CA-G.R. No. 49559-R.

Civil Cases Nos. 8-Inf. and 9-Inf. were tried jointly, the private respondents submitting the same set of testimonial and documentary evidence in both cases.

On August 5, 1997, the RTC, Branch 65, Infanta, Quezon, rendered its Decision^[8] in favor of private respondents, disposing, as follows--

WHEREFORE, judgment is hereby rendered:

1. Dismissing the counterclaims in the above-entitled cases;
2. Ordering the Register of Deeds of Quezon, Infanta Branch, to cancel OCT No. 6133 in the name of Lourdes V. Rutaquio and OCT No. P-12522 in the name of Julian Villaflor;

3. Declaring the plaintiffs [private respondents] owners and rightful possessors of the portions of land covered by OCT Nos. P-6133 and P-12522, in the proportion adjudged in Civil Case No. 428, Court of First Instance of Quezon, Ninth Judicial District, Lucena City, as modified by the decision of the Court of Appeals in CA-G.R. No. 49559-R;
4. Ordering the plaintiffs and the defendant Julian Villaflor or his substitutes to exercise their options pursuant to Arts. 448, 546 and 547, New Civil Code, as enumerated above, within thirty (30) days from finality of the judgment;

Without costs.

SO ORDERED.^[9]

Petitioners seasonably filed their respective Notices of Appeal. The Spouses Lourdes V. Rutaquio and Leonardo Liwanag filed their Appellants' Brief^[10] on April 22, 1999. However, Julian Villaflor, as represented by his children, was only able to file his appellant's brief 82 days after the expiration of the reglementary period to file the same.

Consequently, the CA, in its Resolution^[11] dated September 21, 1999 in CA-G.R. CV No. 59290, dismissed the appeal of Julian Villaflor and ordered his appellant's brief expunged from the records. In the same Resolution, the CA declared the appeal interposed by the Spouses Lourdes V. Rutaquio and Leonardo Liwanag already submitted for decision for their failure to file their reply-brief despite due notice.

Meanwhile, the law firm of Valdez-Sales & Associates, the counsel of Julian Villaflor, filed on October 13, 1999 its Notice of Withdrawal^[12] as counsel for the latter and his representatives.

On the same day, Atty. Solomon L. Condenueno filed his Entry of Appearance^[13] as counsel for Julian Villaflor. He likewise filed on that day a Motion for Reconsideration of the Resolution dated September 21, 1999.

On June 23, 2000, the CA denied the Motion for Reconsideration and affirmed its September 21, 1999 Resolution ordering the dismissal of Julian Villaflor's appeal for failure to file his appellant's brief on time. Hence, this petition raising the following issues--

I

THE PUBLIC RESPONDENT GRAVELY ERRED WHEN IT DISMISSED THE CASE PURELY ON TECHNICAL GROUNDS. THIS IS UNFAIR AND UNJUST SINCE THE PETITIONERS WILL LOSE THEIR TITLED PROPERTY PURELY ON A TECHNICALITY.

II

WHETHER OR NOT THE PUBLIC RESPONDENT EXERCISED GRAVE ABUSE OF DISCRETION WHEN IT AFFIRMED THE RULING OF THE TRIAL COURT