

FIRST DIVISION

[G.R. NO. 170724, January 29, 2007]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. SAN LORENZO
DEVELOPMENT CORPORATION, RESPONDENT.**

D E C I S I O N

GARCIA, J.:

In this petition for review under Rule 45 of the Rules of Court, petitioner Republic of the Philippines seeks the reversal and setting aside of the Decision^[1] dated May 23, 2005 of the Court of Appeals (CA)-Cebu City in CA-G.R. CV No. 73996, as reiterated in its Resolution^[2] of December 7, 2005, dismissing the Republic's appeal from an earlier decision of the Municipal Trial Court in Cities (MTCC), Danao City, which ordered the registration of title in the name of herein respondent San Lorenzo Development Corporation over a 64,909-square meter parcel of land in Barangay Maslog, City of Danao, Province of Cebu.

The facts:

On November 13, 1997, respondent San Lorenzo Development Corporation filed with the MTCC of Danao City an application for registration of title to a parcel of land, described as Lot 1 of the Consolidation-Subdivision Plan, Ccn-07-000094, being a portion of Lots 3151, 3152, 3158, 3159, 3160 and 3161, Cad. 681-D, Danao Cadastre, situated in Barangay Maslog, City of Danao, Province of Cebu, with a total area of 64,909 square meters, more or less. The application was docketed in the MTCC as LRC No. 100.

On November 14, 1997, the MTCC issued an Order setting the application for initial hearing on March 5, 1998. The Order required that a copy thereof be furnished the Commissioner, Land Registration Authority, for notice and for the necessary publication to be made.

On December 11, 1997, the Solicitor General entered his appearance as counsel for petitioner Republic and deputized the City Prosecutor of Danao City to appear in the case. On the same date, the Republic filed its opposition to the application.

On February 24, 1998, another Order was issued by the MTCC resetting the initial hearing of the application to June 15, 1998. This was followed by an Order of May 15, 1998, resetting anew the initial hearing to September 23, 1998.

During the initial hearing, the respondent corporation, through counsel, offered in evidence the following documents to prove or establish the jurisdictional facts of the case, to wit:

Exhibit "A" - The Petition for Registration containing

- seven (7) pages and mandatory annexes designated as A-1 to A-3;
- Lot Plan No. Ccn-07000094 of Lot 1 comprising Cad. Lot Nos. 3151, 3152, 3158, 3159, 3160 and 3161;
- Exhibit "A-1" - Technical Description of Lot No. 1;
- Exhibit "A-2" - Technical Description of Lot No. 1;
- Exhibit "A-3" - Certification of Non-requirement of Surveyor's Certificate;
- Exhibit "B" - Order resetting date of Initial Hearing to September 23, 1998;
- Exhibit "B-1" - Newspaper Clipping;
- Exhibit "C" - Affidavit of Publication issued by *Banat News*;
- Exhibit "D" - Certificate of Publication issued by the Land Registration Authority;
- Exhibit "E" - Certificate of Posting issued by the Court Sheriff;
- Exhibit "F" - Certificate of Publication issued by the NPO;
- Exhibit "F-1" - Copy of Notice of Initial Hearing;
- Exhibit "G" - Copy of the Indorsement addressed to the Clerk of Court, MTCC, Danao City, from Salvador Oriel, Chief, Docket Division, Land Registration Authority, dated July 7, 1998; and
- Exhibit "H" - Notice of Appearance of the Solicitor General.

Thereafter, the case was called aloud in open court to determine whether there were other oppositors aside from the Republic. There being none, the court issued an Order of General Default on September 23, 1998.

Respondent corporation, to prove that it and its predecessors-in-interest had been in possession of the land applied for in the concept of an owner peacefully, continuously, adversely and notoriously for a period required under the law, presented six (6) witnesses. The six, who were predecessors-in-interest of composite portions of the subject parcel of land, provided testimonies to the effect that they had been in possession of the land, and had subsequently sold their respective parcels thereof to the respondent. Their testimonies were supported by tax declarations and deeds of sale.

On October 12, 2001, the trial court rendered its decision^[3] granting the respondent's application for registration of title, thus:

WHEREFORE, premises considered, Judgment is hereby rendered ordering the issuance of title to Lot 1 of the Consolidation-Subdivision of Plan Ccn-07-000094, being a portion of Lot 3152, 3151, 3158, 3159, 3160 and 3161, Cad. 681-D, Danao Cadastre, situated in the Barangay of Maslog, Danao City, Province of Cebu, Island of Cebu, containing an area of SIXTY FOUR THOUSAND NINE HUNDRED NINE (64,909) square meters, for and in the name of San Lorenzo Development Corporation, with principal office address at Ground Floor, Stanford Tower Condominium, 1870 M.H. Del Pilar Street, Malate, Metro Manila.

Upon finality of this Decision, let a corresponding decree of registration be issued in favor of applicant in accordance with Sec. 39 of PD 1529.

SO ORDERED.

On November 7, 2001, petitioner Republic filed a *Notice of Appeal*, therein making known that it was elevating the case to the CA. In the CA, the Republic's appellate recourse was docketed as *CA-G.R. CV No. 73996*.

In the herein assailed decision^[4] of May 23, 2005, the CA-Cebu City dismissed the Republic's appeal. Its motion for reconsideration having been denied by the same court in its equally assailed resolution^[5] of December 7, 2005, the Republic is now before this Court *via* the instant petition raising the following issues:

1. Whether or not the defective and/or want of notice by publication of the initial hearing(s) of the case *a quo* vested the trial court with jurisdiction to take cognizance thereof; and
2. Whether or not deeds of sale and tax declarations/clearances constitute the "**well-nigh incontrovertible**" evidence necessary to acquire title through adverse occupation under C.A. No. 141.

In the matter of jurisdiction, petitioner Republic maintains that the MCTC never acquired jurisdiction over the case on account of its failure to conduct the initial hearing thereof within the period fixed in Section 23 of P.D. No. 1529, otherwise known as the Property Registration Decree, which mandates that the date and hour of initial hearing shall not be earlier than 45 days nor later than 90 days from the date of the Order. In the Republic's own words:^[6]

After a series of postponements, the trial court finally set the initial hearing of the case on September 23, 1998 in an order issued on May 15, 1998 xxx. The notice of initial hearing, however, was issued only on June 6, 1998.

Pursuant to Section 23, P.D. 1529, the initial hearing of the case must have to be not earlier than forty-five (45) days **and** not later than ninety (90) days from the date of the order setting the date and hour of the initial hearing. The Order having been issued on May 15, 1998, the initial hearing should have been set not earlier than June 29, 1998 (45 days from May 15, 1998 and not later than August 13, 1998 (90 days from May 15, 1998). Unfortunately, the initial hearing was scheduled and actually held on September 23, 1998, some forty-one (41) days later

than the prescribed period.

Even if counted from June 8, 1998 (date of notice of hearing), still the hearing on September 23, 1998 is seventeen (17) days late than the prescribed period of ninety (90) days, the last day of which fell on September 6, 1998.

It is noteworthy that both parties invoke the decision of the Court in *Republic v. Manna Properties, Inc.*,^[7] decided January 31, 2005, albeit each cites different portions thereof, and for different purposes. The common reliance on said case is well-placed as it is, indeed, of a similar factual setting. Furthermore, that case tackles the same two (2) issues presently raised: compliance with the jurisdictional requirements for original registration, and proof of possession for the requisite period.

A careful reading of *Republic v. Manna Properties, Inc.* will support a finding in favor of the respondent but only as regards the issue of jurisdiction. Speaking on that issue, the Court in *Manna Properties, Inc.*, wrote:

The duty and the power to set the hearing date lie with the land registration court. After an applicant has filed his application, the law requires the issuance of a court order setting the initial hearing date. The notice of initial hearing is a court document. The notice of initial hearing is signed by the judge and copy of the notice is mailed by the clerk of court to the LRA [Land Registration Authority]. This involves a process to which the party applicant absolutely has no participation.

Petitioner is correct that in land registration cases, the applicant must strictly comply with the jurisdictional requirements. In this case, the applicant complied with the jurisdictional requirements.

The facts reveal that Manna Properties was not at fault why the hearing date was set beyond the 90-day maximum period. x x x.

We have held that "a party to an action has no control over the Administrator or the Clerk of Court acting as a land court; he has no right to meddle unduly with the business of such official in the performance of his duties."^[8] A party cannot intervene in matters within the exclusive power of the trial court. No fault is attributable to such party if the trial court errs on matters within its sole power. It is unfair to punish an applicant for an act or omission over which the applicant has neither responsibility nor control, especially if the applicant has complied with all the requirements of the law.

Moreover, it is evident in *Manner Properties, Inc.* that what is more important than the date on which the initial hearing is set is the giving of sufficient notice of the registration proceedings via publication. In fact, in its memorandum,^[9] petitioner Republic "concedes (a) that respondent should not be faulted if the initial hearing that was conducted on September 23, 1995 was outside the 90-day period set forth under Section 23 of Presidential Decree No. 1529, and (b) that respondent might have substantially complied with the requirement thereunder relating to the registration of the subject land."^[10] Hence, on the issue of jurisdiction, we find for