

## SECOND DIVISION

[ G.R. NO. 168913, March 14, 2007 ]

**ROLANDO TING, PETITIONER, VS. HEIRS OF DIEGO LIRIO,  
NAMELY: FLORA A. LIRIO, AMELIA L. ROSKA, AURORA L. ABEJO,  
ALICIA L. DUNQUE, ADELAIDA L. DAVID, EFREN A. LIRIO AND  
JOCELYN ANABELLE L. ALCOVER, RESPONDENTS.**

### D E C I S I O N

**CARPIO MORALES, J.:**

In a Decision of December 10, 1976 in Land Registration Case (LRC) No. N-983, then Judge Alfredo Marigomen of the then Court of First Instance of Cebu, Branch 7, granted the application filed by the Spouses Diego Lirio and Flora Atienza for registration of title to Lot No. 18281 (the lot) of the Cebu Cadastral 12 Extension, Plan Rs-07-000787.

The decision in LRC No. N-983 became final and executory on January 29, 1977. Judge Marigomen thereafter issued an order of November 10, 1982 directing the Land Registration Commission to issue the corresponding decree of registration and the certificate of title in favor of the spouses Lirio.

On February 12, 1997, Rolando Ting (petitioner) filed with the Regional Trial Court (RTC) of Cebu an application for registration of title to the same lot. The application was docketed as LRC No. 1437-N.<sup>[1]</sup>

The herein respondents, heirs of Diego Lirio, namely: Flora A. Lirio, Amelia L. Roska, Aurora L. Abejo, Alicia L. Dunque, Adelaida L. David, Efren A. Lirio and Jocelyn Anabelle L. Alcover, who were afforded the opportunity to file an opposition to petitioner's application by Branch 21 of the Cebu RTC, filed their Answer<sup>[2]</sup> calling attention to the December 10, 1976 decision in LRC No. N-983 which had become final and executory on January 29, 1977 and which, they argued, barred the filing of petitioner's application on the ground of *res judicata*.

After hearing the respective sides of the parties, Branch 21 of the Cebu RTC, on motion of respondents, dismissed petitioner's application on the ground of *res judicata*.<sup>[3]</sup>

Hence, the present petition for review on certiorari which raises the sole issue of whether the decision in LRC No. N-983 constitutes *res judicata* in LRC No. 1437-N.

Petitioner argues that although the decision in LRC No. N-983 had become final and executory on January 29, 1977, no decree of registration has been issued by the Land Registration Authority (LRA);<sup>[4]</sup> it was only on July 26, 2003 that the "extinct" decision belatedly surfaced as basis of respondents' motion to dismiss LRC No.

1437-N;<sup>[5]</sup> and as no action for revival of the said decision was filed by respondents after the lapse of the ten-year prescriptive period, "the cause of action in the dormant judgment passé[d] into extinction."<sup>[6]</sup>

Petitioner thus concludes that an "extinct" judgment cannot be the basis of *res judicata*.<sup>[7]</sup>

The petition fails.

Section 30 of Presidential Decree No. 1529 or the Property Registration Decree provides:

SEC. 30. *When judgment becomes final; duty to cause issuance of decree.* - The judgment rendered in a **land registration proceeding** becomes **final** upon the expiration of thirty days<sup>[8]</sup> to be counted from the date of receipt of notice of the judgment. An appeal may be taken from the judgment of the court as in ordinary civil cases.

After judgment has become final and executory, it shall devolve upon the court to forthwith issue an order in accordance with Section 39 of this Decree to the Commissioner for the issuance of the decree of registration and the corresponding certificate of title in favor of the person adjudged entitled to registration. (Emphasis supplied)

In a registration proceeding instituted for the registration of a private land, with or without opposition, the judgment of the court confirming the title of the applicant or oppositor, as the case may be, and ordering its registration in his name constitutes, when final, *res judicata* against the whole world.<sup>[9]</sup> It becomes final when no appeal within the reglementary period is taken from a judgment of confirmation and registration.<sup>[10]</sup>

The land registration proceedings being *in rem*, the land registration court's approval in LRC No. N-983 of spouses Diego Lirio and Flora Atienza's application for registration of the lot settled its ownership, and is binding on the whole world including petitioner.

Explaining his position that the December 10, 1976 Decision in LRC No. N-983 had become "extinct," petitioner advances that the LRA has not issued the decree of registration, a certain Engr. Rafaela Belleza, Chief of the Survey Assistance Section, Land Management Services, Department of Environment and Natural Resources (DENR), Region 7, Cebu City having claimed that the survey of the Cebu Cadastral Extension is erroneous and all resurvey within the Cebu Cadastral extension must first be approved by the Land Management Services of the DENR, Region 7, Cebu City before said resurvey may be used in court; and that the spouses Lirio did not comply with the said requirement for they instead submitted to the court a mere special work order.<sup>[11]</sup>

There is, however, no showing that the LRA credited the alleged claim of Engineer Belleza and that it reported such claim to the land registration court for appropriate action or reconsideration of the decision which was its duty.