

FIRST DIVISION

[G.R. NO. 166139, June 20, 2006]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. PEDRO T. CASIMIRO, RESPONDENT.

D E C I S I O N

CHICO-NAZARIO, J.:

This is a Petition for Review on *Certiorari* of the Decision^[1] of the Court of Appeals in CA-G.R. CV No. 78436, dated 18 November 2004, which affirmed the Decision,^[2] of the Regional Trial Court (RTC), Quezon City, Branch 227, in LRC Case No. Q-11101 (99), dated 22 October 2001, granting the Petition for Reconstitution of the original copy of Transfer Certificate of Title (TCT) No. 305917.

Culled from the records are the following facts:

A Petition for the Reconstitution of the original copy of TCT No. 305917 of the Quezon City Registry of Deeds was filed by herein respondent Pedro T. Casimiro on 4 January 1999, which was docketed as LRC Case No. Q-11101 (99) before the RTC, Quezon City. According to the Petition, respondent is the registered owner and lawful possessor of Lots No. 2 and 3 of subdivision plan Psd-57312, situated in Barrio Payatas, Municipality of Montalban, now part of Quezon City, containing the areas of 31,537 and 13,078 square meters, respectively, more or less. Respondent allegedly purchased the subject lots from his father, Jose M. Casimiro, as evidenced by a Deed of Absolute Sale, dated 24 March 1979. By virtue of the said sale, TCT No. 35359, in the name of the seller, Jose M. Casimiro, was cancelled, and TCT No. 305917, in the name of the buyer and herein respondent, Pedro T. Casimiro, was issued. TCT No. 305917 was among the certificates of title lost and destroyed during the fire that razed the Quezon City Hall Building on 11 June 1988. The Petition in LRC Case No. Q-11101 (99) was subsequently amended on 20 November 2000 to include the Quezon City Register of Deeds as respondent. During the hearing for the purpose of establishing the jurisdictional requirements of the Petition, Solicitor Brigido Luna, from the Office of the Solicitor General (OSG) and on behalf of herein petitioner, Republic of the Philippines, appeared before the RTC, Quezon City, interposing his objection to the Petition.

After hearing, the RTC on 24 May 2001, rendered its Decision^[3] denying the Petition for failure to comply with Section 3 of Republic Act (Rep. Act) No. 26,^[4] the dispositive portion of which reads:

WHEREFORE, premises considered, the instant petition for reconstitution of TCT No. 305917 is DENIED for failure to comply with Section 3 of Republic Act No.26. This dismissal, however, shall not preclude the right of the petitioner to file an application for confirmation of his or their title under the provisions of Land Registration Act if he is entitled thereto. As

provided by RA No. 26; "each dismissal shall not preclude the right of the party or parties entitled thereto to file an application for confirmation of his or their title under the provision of the Land Registration Act."

Respondent filed a Motion for Reconsideration of the aforementioned Decision of the RTC, and after hearing, the same court rendered a Decision,^[5] dated 22 October 2001, granting the motion, and ruling thus:

WHEREFORE, premises considered, petition is hereby **GRANTED**. The Register of Deeds of Quezon City is hereby **DIRECTED TO ACKNOWLEDGE RECEIPT AND THEN VERIFY** the authenticity of the attached "Owner's Duplicate Certificate" - which is the duplicate original - and if found authentic and issued regularly in due course, to **RECONSTITUTE** and issue a corresponding new "owner's duplicate copy" of the reconstituted title of TCT No. 305917 - provided however that there exists no other title or any "Owner's Duplicate Certificate" of the title in the Register of Deeds, encompassing the area covered by the above TCT No.305917, otherwise this decision shall *ipso facto* be without force and effect.

Subsequently, an Entry of Judgment was issued on 12 November 2001 in LRC Case No. Q-11101 (99).^[6] However, on 20 November 2001, a Notice of Nullity of Entry of Judgment^[7] was issued by the Clerk of Court of the RTC, considering that the herein petitioner, Republic of the Philippines, through the OSG, filed a Notice of Appeal *via* registered mail on 9 November 2001, which was received by the said court on 20 November 2001. During the hearing on the Notice of Appeal, Solicitor Brigido Luna manifested that instead of the Notice of Appeal, the same should be considered as an "*Ad-Cautelum* Notice of Appeal converted into a Motion for Reconsideration." The RTC, issued an Order,^[8] dated 10 December 2001, granting the said "*Ad-Cautelum* Notice of Appeal converted into a Motion for Reconsideration" and ordered a re-hearing of the case for the purpose of verifying the authenticity of the Owner's Duplicate of TCT No. 305917.

In a Manifestation,^[9] dated 19 December 2001, petitioner asserted, among other things, that it had received only on 11 December 2001 a copy of the Entry of Judgment declaring the Decision of the RTC, dated 22 October 2001, final and executory, and that said Entry of Judgment was premature given that it intended to appeal the assailed Decision. Petitioner further explained that it was the suggestion of the RTC to treat its Notice of Appeal as a Motion for Reconsideration; that in deference to such suggestion, it agreed to a re-hearing only for the purpose of verifying the owner's duplicate of TCT No. 305917 with the Quezon City Register of Deeds; and that it had not abandoned its Notice of Appeal by merely acquiescing that said Notice be treated as a Motion for Reconsideration, upon the suggestion of the RTC. In another Manifestation,^[10] dated 7 January 2002, petitioner reiterated that with the perfection of its appeal upon the filing in due time of its Notice of Appeal, and with the expiration of respondent's time to appeal, RTC had already lost its jurisdiction over the case.

In the meantime, on 8 January 2002, the Quezon City Register of Deeds manifested^[11] before the RTC that based on its Decision, dated 22 October 2001, the Quezon City Register of Deeds was directed to (a) verify the authenticity of the

owner's duplicate of TCT No. 305917, and (b) ascertain whether or not there was another title covering the same parcel of land as that of the title sought to be reconstituted. In compliance with the said Decision, the Quezon City Register of Deeds indorsed the matter to the Land Registration Authority (LRA), which issued a report/findings,^[12] dated 10 December 2001. The Quezon City Register of Deeds essentially adopted the findings of the LRA. The LRA declared the authenticity of the owner's duplicate of TCT No. 305917 as highly questionable, finding thus:

Anent to Question No. 1, a verification of the records of the Property Section, this Authority, reveals that Judicial Form with Serial No. 3842367 was issued to the Registry of Deeds of Quezon City on September 21, 1982 while TCT No. 305917 under Judicial Form No. 3842367 shows that it was issued/entered by the Register of Deeds of Quezon City on November 20, 1979, hence, there exists a discrepancy on the dates of issuance of the Judicial Form and the issuance of TCT No. 305917.^[13]

The LRA likewise pronounced that the lots covered by TCT No. 305917 overlapped another title duly issued to the National Government, categorically stating that:

With respect to Question No. 2, Lots 2 and 3, both of the subdivision plan PSD-57312 covering TCT No. 305917 when plotted in our Municipal Index Sheet, it appears that the technical descriptions of both lots are open polygon, inside Government Center and Natl. Govt. Center.^[14]

Despite the fact that the Manifestation, dated 8 January 2002, of the Quezon City Register of Deeds, with the attached LRA report/findings, dated 10 December 2001, were actually favorable to its cause, petitioner still filed another Manifestation, dated 14 January 2002, insisting that the RTC had already lost jurisdiction over the present case due to the perfection of its appeal and the expiration of respondent's time to appeal, and that it would no longer participate in any proceeding before the said court.

On the other hand, in an attempt to address the adverse findings of the Quezon City Register of Deeds and the LRA, particularly on the discrepancy in the dates of issuance of Judicial Form No. 3842367 and of TCT No. 305917, respondent presented a Certification^[15] issued by Edelmira N. Salazar, LRA Administrative Officer IV, OIC-Judicial Forms, on 20 December 2001, which reads:

This is to certify that after due verification of the records on file in the Property Section, Land Registration Authority, it appears that Judicial Form No. 109-D (Revised 1977) with Serial No. 3842367 was issued to Registry of Deeds of Quezon City on November 17, 1979.

Over the objection of the petitioner, RTC rendered an Amended Decision,^[16] dated 17 January 2002, the decretal portion of which states that:

WHEREFORE, premises considered:

- (1) the **"Motion for Reconsideration" of the October 22, 2001 Decision** of the Solicitor General is hereby **GRANTED**;
- (2) and therefore, the **October 22, 2001 Decision** is hereby **RECALLED, CANCELLED AND DECLARED NULL AND**

VOID AB INITIO AND WITHOUT EFFECT;

- (3) the **instant petition for reconstitution of the original of TCT No. 305917** is hereby **DENIED** for failure to comply with Republic Act No. 26's jurisdictional requirements;
- (4) the Register of Deeds of Quezon City which found the "Owner's Duplicate Original" of TCT No. 305917 as irregularly issued is hereby **DIRECTED** to turn over its findings to the **National Bureau of Investigation (NBI)**;
- (5) the **National Bureau of Investigation (NBI)** is hereby **DIRECTED** to investigate the alleged fraudulent issuance of TCT No. 305917 - and if warranted, to file the necessary civil and criminal charges relative to the fraudulent document involving TCT No. 305917.
- (6) the NBI is **DIRECTED** to render a report to this Court of its findings within six (6) months from receipt of this Amended Decision.

Once again, despite the fact that the aforequoted Amended Decision of the RTC, dated 17 January 2002, was apparently in its favor, the petitioner filed another Manifestation, dated 29 January 2002, asserting that, by virtue of its perfected appeal, the said court already lost its jurisdiction to render the Amended Decision, dated 17 January 2002, and that the same could not have any legal effect. Petitioner insisted that its Notice of Appeal must be given due course and the records of the case be elevated to the Court of Appeals.

Unyielding, the RTC issued a Resolution,^[17] dated 6 February 2002, denying petitioner's Notice of Appeal. In the said Resolution, the RTC maintained that the said Notice of Appeal of its Decision, dated 22 October 2001, was premature since such Decision was not yet final and executory. The Decision of 22 October 2001 was conditional, and would become effective only if the conditions stated in its dispositive portion had been met, to wit:

- (1) that the "owner's duplicate original" must be verified by the Register of Deeds to be authentic and duly issued; thus the October 22, 2001 Amended Decision stated: "The Register of Deeds of Quezon City is hereby **DIRECTED TO ACKNOWLEDGE RECEIPT AND THEN VERIFY** the authenticity of the attached "Owner's Duplicate Certificate" - which is the **duplicate original** - and if found authentic and issued regularly in due course, to **RECONSTITUTE** and issue a corresponding new "owner's duplicate copy" of reconstituted title of TCT No. 305917.
- (2) that the Register of Deeds must verify that there is no other property with the same technical description as TCT No. 305917 or that any portion of the property is encompassed in another TCT technical description; thus the October 22, 2001 Amended Decision stated: "- provided however that there exists no other title or any "Owner's Duplicate Certificate" of the title in the Register of Deeds, encompassing the area covered by the above

TCT No. 305917, otherwise this decision shall ipso facto be without force and effect."

The same Resolution provided that without compliance with the foregoing conditions, the Decision, dated 22 October 2001, shall *ipso facto* be without force and effect. Furthermore, the Quezon City Register of Deeds actually found that the given conditions were not met, and so reported to the court, thus, the Decision of 22 October 2001 never went into effect and TCT No. 305917 cannot be reconstituted by the Quezon City Register of Deeds pursuant thereto. Finally, the RTC barred petitioner from appealing the Resolution, dated 6 February 2002, invoking Section 1(d), Rule 41 of the Rules of Court which states that no appeal may be taken from "an order disallowing or dismissing an appeal."

In its Petition for *Certiorari* and *Mandamus*^[18] filed before the Court of Appeals, docketed as CA-G.R. SP No. 70723, petitioner prayed for the following:

WHEREFORE, it is respectfully prayed that:

- (1) A writ of preliminary mandatory injunction be issued directing the trial court to give due course to the appeal in LRC Case No. Q-11109-99 and to elevate the records of the case to this Honorable Court;
- (2) After due proceedings, the writ of preliminary mandatory injunction be made permanent; and
- (3) The entry of judgment dated November 12, 2001 and Resolution dated February 6, 2002 be nullified and set aside.

Further just and equitable reliefs are also prayed for:

The Court of Appeals eventually rendered its Decision^[19] in CA-G.R. SP No. 70723, on 17 March 2003, the salient portions of which read:

Jurisdiction is vested by law and cannot be conferred or waived by the parties (***Pangilinan vs. Court of Appeals, 321 SCRA 51***). Thus, when the respondent court rendered the said original decision despite the presence of two (2) conditions, to be satisfied, the timely appeal thereof by the petitioner and the lapse of private respondent's period to appear, divested the respondent court the jurisdiction to continue hearing the case. Suffice it to state, petitioner loses the right to invoke the intervention of the trial court and so he cannot anymore file a motion for reconsideration or new trial in said court. Nonetheless, despite the loss of its jurisdiction as a result of the appeal, the court before the transmission of the original record may issue orders: a) the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal; b) approve compromises; c) permit of appeal of indigent litigants, and d) order execution pending appeal (Section 9, Rule 41, Rules of Court).

Evidently, the assailed Amended Decision and Resolution which denied due course to petitioner's appeal and barring it from further taking an appeal, were not included in the exceptions and therefore, considered as