

SECOND DIVISION

[G.R. No. 149992, August 20, 2004]

HI-TONE MARKETING CORPORATION, PETITIONER, VS. BAIKAL REALTY CORPORATION AND ALEJANDRO R. VILLANUEVA, IN HIS CAPACITY AS REGISTER OF DEEDS OF CAVITE, RESPONDENTS.

D E C I S I O N

TINGA, J.:

The great and chief end of men . . . putting themselves under government, is the preservation of their property. [John Locke, *Treatises on Government*]

This is a petition for review of the Court of Appeals' *Decision*^[1] dated 02 May 2001 and *Resolution* dated 14 September 2001,^[2] dismissing petitioner's petition for annulment of the 29 March 1995 *Order* of the Regional Trial Court (RTC) of Cavite at Trece Martires City, Branch 23 in Civil Case No. TM-582.^[3]

On 22 February 1995, private respondent Baikal Realty Corporation ("Baikal Realty") filed a petition for *mandamus* with a prayer for preliminary injunction and/or temporary restraining order^[4] with the RTC of Cavite to compel the Register of Deeds of Cavite ("Register of Deeds") to register two deeds of absolute sale covering two parcels of land, separately executed by Honorata Hernale and Benjamin Agrabiador in favor of Baikal Realty. The parcel of land purportedly sold by Honorata Hernale is covered by Transfer Certificate of Title (TCT) No. T-2292^[5] of the Registry of Deeds of the Province of Cavite and denominated as Lot 5765-A, with the following technical description recited thereon:

A parcel of land (Lot 5765-A of the subdivision plan Fls-742-D, being a portion of Lot 5765 of Imus Estate, L.R.C. Record No. 8843), situated in the Barrio of Salawag, Municipality of Dasmarinas, Province of Cavite. Bounded on the N., along line 1-2, by Lot 5762, along line 2-3, by lot 5764 and along line 3-4, by Lot 5766, on the W., along lines 4-5-6-7-8-9, by Lot 5769, all of Imus Estate; on the S., along lines 9-10-11-12-13, by Lot 5765-B of the subdivision plan; and on the E., along lines 13-14-15-16-1, by Lot 5761, Imus Estate. Beginning at a point marked "I" on plan, being EAST, 778.30 m. from Mon. 170, Imus Estate, thence WEST, 425.20 m. to point 3; thence WEST, 214.50 m. to point 3; thence WEST, 330.90 m. to point 4; thence S. 5 deg. 10'W., 14.50 m. to point 5; thence S. 9 deg. 07'E., 21.50 m. to point 6; thence S. 33 deg. 35'E., 14.30 m. to point 7; thence S.16 deg. 03'W., 35.80 m. to point 8; thence S. 38 deg. 43'E., 32.90 m. to point 9; thence N. 59 deg. 56'E., 185.00 m. to point 10; thence N. 80 deg. 56'E., 240.00 m. to point 11; thence N. 89 deg. 56'E., 240.00 m. to point 12; thence N. 80 deg. 56'E., 232.93 m. to point 13; thence N. 29 deg. 31'E., 47.01 m. to point 14; thence N. 48

deg. 18'E., 45.50 m. to point 15; thence N. 3 deg. 46'W., 28.90 m. to point 16; thence N. 1 deg. 13'E., 56.30 m. to the point of beginning; containing an area of ONE HUNDRED FORTY NINE THOUSAND NINE HUNDRED FIFTY THREE (149,953) SQUARE METERS. All points referred to are indicated on the plan and marked on the ground as follows: points 1, 2, 3, 4, 9, 10, 11, 12, and 13 by P.L.S. Conc. Mons.; and the rest by Old Points; bearings true; date of the original survey, July 27, 1905 to June 1, 1908, and that of the subdivision survey, July 5 & 6, 1930 and approved on Aug. 6, 1931.

Note: Lot No. 5765-A - Lot 5765 – New of Imus Estate

On its face, TCT No. T-2292 appears to have been derived from TCT No. RT-1662-12 (T-11791-79) which is a reconstituted title.

On the other hand, the property sold by Benjamin Agrabiador is covered by TCT No. T-27163^[6] (Cavite). Likewise, TCT No. T-27163 appears to have been derived from TCT No. RT-3918-27 which is another reconstituted title.

According to Baikol Realty, the Register of Deeds refused to register the subject deeds of absolute sale despite the former's compliance with all the requirements for registration, as the latter reasoned out that the parcels of land sold by Hernale and Agrabiador are, according to the records of the Registry, covered by transfer certificates of title different from those mentioned in the deeds.^[7]

On the day following the filing of the petition for *mandamus*, or on 23 February 1995, respondent Judge Jose J. Parentela issued a temporary restraining order^[8] ("TRO") commanding the Register of Deeds to desist from recording or annotating any transaction affecting the properties covered by TCT No. T-2292 and No. T-27163.

Subsequently, on 08 March 1995, Baikol Realty filed a *Motion to Withdraw Petition Without Prejudice*,^[9] which was granted^[10] on the same day. In the same Order^[11] dated 08 March 1995, the TRO dated 23 February 1995 was also recalled. But the motion, however, was later withdrawn on the ground of Baikol Realty's miscommunication with its counsel. On 21 March 1995, respondent judge issued an Order^[12] recalling the order granting withdrawal of the petition, and another Order^[13] directing the Register of Deeds to show cause on or before 29 March 1995 why the petition should not be granted.

On 28 March 1995, petitioner Hi-Tone Marketing Corporation ("Hi-Tone") filed a *Motion for Intervention*,^[14] claiming to be the lawful and registered owner of the parcel of land subject of the deed of sale executed by Honorata Hernale and sought to be registered by Baikol Realty. Hi-Tone claimed that sometime in March 1995, it discovered that some persons under the employ of Baikol Realty had begun developing the property into a residential subdivision, and it was only on 28 March 1995 that it learned of the petition filed by Baikol Realty.^[15] Hi-Tone presented its TCT No. T-11258^[16] (Cavite) also covering Lot 5765-A and reciting the same technical description found in Hernales' TCT No. T-2292.

In compliance with the second order dated 21 March 1995, the Register of Deeds filed a *Manifestation*,^[17] stating that Baikal Realty should have first exhausted the administrative remedies before filing its petition, particularly the procedure on *consulta* under Section 117 of the Property Registration Decree which is Presidential Decree (P.D.) No. 1529. In the same *Manifestation*, the Register of Deeds further averred that he elevated the matter of registration of the subject properties to the Land Registration Authority ("LRA") for resolution through a letter dated 15 March 1995, since the transfer certificates of title appeared to have been derived from titles which are not on file in the Registry.

During the 29 March 1995 hearing, respondent judge denied Hi-Tone's motion for intervention for failure to comply with the three (3) - day notice rule. Hi-Tone orally moved for reconsideration of the denial of its motion, arguing that it could not observe the rule because of the urgency of the situation. Respondent judge denied the motion for reconsideration.^[18]

In an *Order* dated 29 March 1995,^[19] the respondent judge denied Hi-Tone's motion for intervention. Interestingly, the same order likewise contained the following paragraph in reference to Hi-Tone's second motion for intervention which was to be filed two days later still:

Anent the Motion for Leave of Court to Intervene and Admit Opposition dated March 31, 1995 filed by Hi-Tone Marketing Corporation and considering further, the Opposition interposed thereto by plaintiff, let the hearing for oral arguments be re-set on April 20, 1995 at 8:30 o'clock in the morning.

In another *Order* dated 29 March 1995,^[20] the judge, upon mere verbal motion of Baikal Realty's counsel, then and there declared the Register of Deeds in default and allowed Baikal Realty to present its evidence *ex-parte* also on the same day. Baikal Realty presented only one witness, its own liaison officer.^[21]

The trial court issued a third order^[22] dated 29 March 1995, hereinafter referred to as the "questioned order," directing the Register of Deeds to register the subject deeds of absolute sale and to issue new transfer certificates of title in favor of Baikal Realty. The questioned order reads, thus:

Considering that the duties enjoined upon the Register of Deeds by Sec. 57 by the Property Registration Decree are clearly ministerial and mandatory in character and that the Register of Deeds is not authorized to determine whether or not fraud was committed in the deed sought to be registered (*IN RE Consulta of Vicente J. Francisco* on behalf of Cabantog, 67 Phil. 222) and it appearing that the right of the plaintiff is well defined and certain, in view of the presence of the requirements for the registration of a deed of absolute sale and that the right to register said deed of sale is enjoined by law, this Court resolves that a writ of *mandamus* be issued as prayed for in the verified petition filed by Baikal Realty Corporation through counsel.

WHEREFORE, premises considered, the Register of Deeds of Cavite Province is hereby directed to register the Deed of Absolute Sale executed by Honorato Hernale on February 20, 1994 in favor of Baikal Realty Corporation and that executed by Benjamin Agrabiador on March 15, 1994 in favor of the same plaintiff corporation regarding [TCTs] Nos. T-2292 and T-27163, respectively, and to issue new Transfer

Certificates of Title regarding said parcels of land in favor of said plaintiff corporation.

On 31 March 1995, Hi-Tone filed a *Motion for Leave of Court to Intervene and Admit Opposition*,^[23] setting the hearing thereof on 03 April 1995. The respondent judge, however, reset it to 20 April 1995 on the ground that Baikal Realty's opposition^[24] to the motion was received only on 03 April 1995.^[25]

The records show, without any explanation however, that as early as 10 March 1995, Baikal Realty secured TCT No. T-542567 covering Lot 5765-A in its name from the Register of Deeds.^[26] On 6 April 1995, Hi-Tone caused the annotation of a notice of *lis pendens* at the back of TCT No. T-542567.^[27]

During the 20 April 1995 hearing, Hi-Tone's counsel manifested that it was withdrawing its motion for leave to intervene and would instead file an independent case.^[28] The trial court granted the withdrawal.^[29]

On 21 April 1995, Hi-Tone filed a *Petition* under Rule 65 of the Revised Rules of Court with the Court of Appeals.^[30] It imputed grave abuse of discretion to respondent judge in 1) declaring the Register of Deeds in default without any factual or legal basis; 2) stringently enforcing technical rules of procedure without considering the actual merits of the case; 3) not taking judicial notice that Baikal Realty failed to exhaust administrative remedies and that Baikal Realty's documents and titles are fictitious and questionable while Hi-Tone has a valid and legal title over the subject property; and 4) issuing the 29 March 1995 *Order* directing the Register of Deeds to register the subject deed in Baikal Realty's name in violation of Hi-Tone's right to due process. Thus, Hi-Tone prayed for the nullification of the questioned order.

Meanwhile, it appears that Baikal Realty filed a *Complaint*, docketed as Civil Case No. TM-588 of the RTC of Cavite (Trece Martires City), for annulment and/or cancellation of title with prayer for provisional remedies and damages.^[31] Acting upon the application, the respondent judge issued on 17 April 1995 a TRO^[32] directing the Register of Deeds (Trece Martires City) to desist from recording, entering, or annotating any transaction adversely affecting the new titles issued in the name of Baikal Realty and prohibiting Hi-Tone from directly and indirectly causing said acts to be done, and from encumbering or mortgaging in any manner the properties covered by the new titles, or entering or attempting or trying to enter the properties.

Hi-Tone filed a *Supplemental Petition* on 26 April 1995.^[33] It assailed the 17 April 1995 TRO in Civil Case No. TM-588 for having been issued with grave abuse of discretion,^[34] since it is contrary to law as the right to the subject property was still under dispute.^[35]

In its 04 May 1995 *Decision*,^[36] the Court of Appeals dismissed the petition, holding that:

. . . Not being a party to aforesaid case, petitioner, therefore, has no personality to participate, much more to question the orders issued therein. Petitioner must seek its remedy elsewhere, but not in this proceeding.

On 26 May 1995, Hi-Tone filed its *Motion for Reconsideration*,^[37] asserting that its petition, though styled as a petition for review on *certiorari*, was in substance a petition for annulment of judgment.^[38] The petition being such, Hi-Tone claimed it had personality to file it since under the rules a person who is not even a party to the judgment may sue for its annulment.^[39]

Debunking the motion for reconsideration, in its Resolution dated 27 June 1995^[40] the appellate court held that the allegations of the petition emphatically stressed Hi-Tone's intention to file a Rule 65 petition. It added that the allegations in the petition could not even make out a case for annulment of judgment.

On 8 August 1995, in Civil Case No. TM-582 the lower court rendered its *Decision*^[41] which is essentially a judgment by default. Its dispositive portion reads, thus:

WHEREFORE, a final injunction perpetually restraining defendant Register of Deeds of Cavite Province and/or other persons acting upon his authority and/or are hereby permanently enjoined from the commission or continuance of recording or annotating any transaction regarding the said properties of plaintiff corporation covered by TCT Nos. T-2292 and T-27163 in the names of Honorata Hernale and Benjamin Agrabiador, respectively, except that entered into by plaintiff corporation.

Parenthetically, the writ of *mandamus* issued by this Court to said Register of Deeds in its Order dated March 29, 1995 is not dissolved, modified or withdrawn and shall remain in force and in effect, unless otherwise directed by a lawful order.

SO ORDERED.^[42]

Claiming to have taken its cue from the Court of Appeals' dismissal of its initial petition, Hi-Tone caused the filing of another petition, this time a petition for annulment of judgment.^[43] Here, Hi-Tone claimed that the questioned order dated 29 March 1995 is void as it was issued in clear violation of due process, *i.e.*, before Hi-Tone, an indispensable party, could be granted an opportunity to be heard. It pointed out that while respondent judge had set the hearing of the *Motion for Leave to Intervene and Admit Opposition* on 20 April 1995, he had already acted on the merits of the petition for *mandamus* and promulgated the questioned order on 29 March 1995.^[44] It added that Judge Parentela's predilection to deprive it of due process was also evident from the latter's denial of its first motion for intervention based on a mere technicality.^[45] It also submitted that respondent judge committed grave abuse of discretion in not considering that Baikal Realty failed to exhaust the administrative remedy provided in Section 117 of P.D. No. 1529.^[46]

In the assailed *Decision*,^[47] the Court of Appeals dismissed the petition for