

## FIRST DIVISION

[ G.R. No. 128195, October 03, 2001 ]

**ELIZABETH LEE AND PACITA YU LEE, HON. JUDGE JOSE D. ALOVERA,\* PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 17, ROXAS CITY, THE REGISTER OF DEEDS OF ROXAS CITY, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS AND THE ADMINISTRATOR, LAND REGISTRATION AUTHORITY AND THE HON. COURT OF APPEALS,\* RESPONDENTS.**

### D E C I S I O N

#### **PARDO, J.:**

The case under consideration is a petition for review on *certiorari* of the decision<sup>[1]</sup> of the Court of Appeals nullifying that of the Regional Trial Court, Roxas City, in Reconstitution Case No. R-1928,<sup>[2]</sup> pertaining to Lot 398, Capiz Cadastre, covered by Original Certificate of Title No. 3389.

Sometime in March 1936, Rafael, Carmen, Francisco, Jr., Ramon, Lourdes, Mercedes, Concepcion, Mariano, Jose, Loreto, Manuel, Rizal and Jimmy, all surnamed Dinglasan sold to Lee Liong, a Chinese citizen, a parcel of land with an approximate area of 1,631 square meters, designated as Lot 398 and covered by Original Certificate of Title No. 3389, situated at the corner of Roxas Avenue and Pavia Street, Roxas City.<sup>[3]</sup>

However, in 1948, the former owners filed with the Court of First Instance, Capiz an action against the heirs of Lee Liong for annulment of sale and recovery of land.<sup>[4]</sup> The plaintiffs assailed the validity of the sale because of the constitutional prohibition against aliens acquiring ownership of private agricultural land, including residential, commercial or industrial land. Rebuffed in the trial court and the Court of Appeals, plaintiffs appealed to the Supreme Court. On June 27, 1956, the Supreme Court ruled thus:

"... granting the sale to be null and void and can not give title to the vendee, it does not necessarily follow therefrom that the title remained in the vendor, who had also violated the constitutional prohibition, or that he (vendor) has the right to recover the title of which he has divested himself by his act in ignoring the prohibition. In such contingency another principle of law sets in to bar the equally guilty vendor from recovering the title which he had voluntarily conveyed for a consideration, that of *pari delicto*."<sup>[5]</sup>

On July 1, 1968, the same former owners Rafael A. Dinglasan, together with

Francisco, Carmen, Ramon, Lourdes, Mercedes, Concepcion, Mariano, Jose, Loreto, Rizal, Jimmy, and Jesse Dinglasan filed with the Court of First Instance, Capiz an action for recovery of the same parcel of land.<sup>[6]</sup> Citing the case of *Philippine Banking Corporation v. Lui She*,<sup>[7]</sup> they submitted that the sale to Lee Liong was null and void for being violative of the Constitution. On September 23, 1968, the heirs of Lee Liong filed with the trial court a motion to dismiss the case on the ground of *res judicata*.<sup>[8]</sup> On October 10, 1968, and November 9, 1968, the trial court denied the motion.<sup>[9]</sup> The heirs of Lee Liong elevated the case to the Supreme Court by petition for certiorari. On April 22, 1977, the Supreme Court annulled the orders of the trial court and directed it to dismiss the case, holding that the suit was barred by *res judicata*.<sup>[10]</sup>

On September 7, 1993, Elizabeth Manuel-Lee and Pacita Yu Lee filed with the Regional Trial Court, Roxas City a petition for reconstitution of title of Lot No. 398 of the Capiz Cadastre, formerly covered by Original Certificate of Title No. 3389 of the Register of Deeds of Roxas City.<sup>[11]</sup> Petitioners alleged that they were the widows of the deceased Lee Bing Hoo and Lee Bun Ting, who were the heirs of Lee Liong, the owner of the lot. Lee Liong died intestate in February 1944. On June 30, 1947, Lee Liong's widow, Ang Chia, and his two sons, Lee Bun Ting and Lee Bing Ho, executed an extra-judicial settlement of the estate of Lee Liong, adjudicating to themselves the subject parcel of land.<sup>[12]</sup> Petitioner Elizabeth Lee acquired her share in Lot No. 398 through an extra-judicial settlement and donation executed in her favor by her deceased husband Lee Bing Hoo. Petitioner Pacita Yu Lee acquired her share in the same lot by succession from her deceased husband Lee Bun Ting, as evidenced by a deed of extra-judicial settlement.<sup>[13]</sup>

Previously, on December 9, 1948, the Register of Deeds, Capiz, Salvador Villaluz, issued a certification that a transfer certificate of title over the property was issued in the name of Lee Liong.<sup>[14]</sup> However, the records of the Register of Deeds, Roxas City were burned during the war. Thus, as heretofore stated, on September 7, 1968, petitioners filed a petition for reconstitution of title.

On June 10, 1994, the Regional Trial Court, Roxas City, Branch 17, ordered the reconstitution of the lost or destroyed certificate of title in the name of Lee Liong on the basis of an approved plan and technical description.<sup>[15]</sup> The dispositive portion of the trial court's decision reads thus:

"WHEREFORE, in reiteration, the Register of Deeds for the City of Roxas is ordered to reconstitute the lost or destroyed certificate of title in the name of Lee Liong, deceased, of Roxas City, with all the conditions stated in paragraph 2 of this decision. This decision shall become final after the lapse of thirty (30) days from receipt by the Register of Deeds and by the Commissioner of LRA of a notice of such judgment without any appeal having been filed by any of such officials.

"SO ORDERED.

"Given at Roxas City, Philippines,

"June 10, 1994.

"JOSE O. ALOVERA

"Judge"[16]

On August 18, 1994, the Clerk of Court, Regional Trial Court, Roxas City, Branch 17 issued an Entry of Judgment.[17]

On January 25, 1995, the Solicitor General filed with the Court of Appeals a petition for annulment of judgment in Reconstitution Case No. 1928, alleging that the Regional Trial Court, Roxas City had no jurisdiction over the case.[18] The Solicitor General contended that the petitioners were not the proper parties in the reconstitution of title, since their predecessor-in-interest Lee Liong did not acquire title to the lot because he was a Chinese citizen and was constitutionally not qualified to own the subject land.

On April 30, 1996, the Court of Appeals promulgated its decision declaring the judgment of reconstitution void.[19]

On May 24, 1996, Elizabeth Manuel-Lee and Pacita Yu Lee filed with the Court of Appeals a motion for reconsideration of the decision.[20] On February 18, 1997, the Court of Appeals denied the motion.[21]

Hence, this petition.[22]

Petitioners submitted that the Solicitor General was estopped from seeking annulment of the judgment of reconstitution after failing to object during the reconstitution proceedings before the trial court, despite due notice. Petitioners alleged that the Solicitor General merely acted on the request of private and politically powerful individuals who wished to capitalize on the prime location of the subject land.

Petitioners emphasized that the ownership of the land had been settled in two previous cases of the Supreme Court, where the Court ruled in favor of their predecessor-in-interest, Lee Liong. Petitioners also pointed out that they acquired ownership of the land through actual possession of the lot and their consistent payment of taxes over the land for more than sixty years.

On the other hand, the Solicitor General submitted that the decision in the reconstitution case was void; otherwise, it would amount to circumventing the constitutional proscription against aliens acquiring ownership of private or public agricultural lands.

We grant the petition.

The reconstitution of a certificate of title denotes restoration in the original form and condition of a lost or destroyed instrument attesting the title of a person to a piece of land.[23] The purpose of the reconstitution of title is to have, after observing the procedures prescribed by law, the title reproduced in exactly the same way it has