

SECOND DIVISION

[G.R. No. 128531, October 26, 1999]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND VICENTE L. YUPANGCO, JR., RESPONDENTS.

DECISION

MENDOZA, J.:

The question for decision in this case is whether in a proceeding for the issuance of an owner's duplicate certificate of title, the Solicitor General is required to be notified, such that failure to give such notice would render the proceedings void. Both the Regional Trial Court and the Court of Appeals ruled in the negative. Hence, this petition for review on *certiorari*.

The facts are as follows:

Private respondent Vicente Yupangco is the owner of a unit in a condominium building in Legaspi Street, Makati City, as evidenced by Certificate of Title No. 7648. Because his aforesaid certificate could not be located, he filed, on January 28, 1994, in the Regional Trial Court, Branch 136, Makati, a petition for the issuance of a new duplicate certificate of title in lieu of his lost copy, pursuant to §109 of P.D. No. 1529 (Property Registration Decree). The trial court ordered the Register of Deeds of Makati to comment on the petition and thereafter set the case for initial hearing.

On February 11, 1994, the Registrar of Deeds of Makati filed a manifestation that she had no objection to the petition. After hearing private respondent's evidence, the trial court rendered, on December 15, 1995, its decision granting the petition, declaring as invalid the missing copy of the certificate of title, and ordering the Registrar of Deeds of Makati to issue a new owner's duplicate certificate of title in the name of private respondent. A copy of this decision was furnished the Solicitor General.

On February 5, 1996, the Solicitor General moved for reconsideration of the trial court's decision on the ground that no copy of private respondent's petition or notice thereof had been given to him. His motion was, however, denied. The Office of the Solicitor General then elevated the case to the Court of Appeals, which, in a decision^[1] dated March 5, 1997, affirmed the order of the trial court. Hence, this petition.

Private respondent's petition before the trial court was anchored on §109 of P.D. No. 1529 (Property Registration Decree) which provides:

SEC. 109. *Notice and replacement of lost duplicate certificate.* — In case of lost or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or

destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the facts of such loss or destruction may be filed by the registered owner or other person in interest and registered.

Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.^[2] (Emphasis added)

Nothing in the law, however, requires that the Office of the Solicitor General be notified and heard in proceeding for the issuance of an owner's duplicate certificate of title. In contrast, §23 of the same law, involving original registration proceedings, specifically mentions the Solicitor General as among those who must be notified of the petition. Similarly, §36 provides that the petition for registration in cadastral proceedings must be filed by the Solicitor General, in behalf of the Director of Lands.

The Solicitor General, on the other hand, invokes §35(5), Chapter 12, Title III, Book IV of the 1987 Administrative Code which provides:

SEC. 35. Powers and Functions. — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. When authorized by the President or head of the office concerned, it shall also represent government owned or controlled corporations. The Office of the Solicitor General shall discharge duties requiring the services of lawyers. It shall have the following specific powers and functions:

. . . .

(5) Represent the Government in all land registration and related proceedings. . .

He contends that, in view of this provision, it was mandatory for the trial court to notify him of private respondent's petition and that its failure to do so rendered the proceedings before it null and void.^[3]

The contention has no merit. The provision of the Administrative Code relied upon by the Solicitor General is not new. It is simply a codification of §1(e) of P.D. No. 478 (Defining the Powers and Functions of the Office of the Solicitor General) which similarly provided:

SECTION 1. Powers and Functions.— (1) The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the Office concerned, it shall also represent government owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the