

THIRD DIVISION

[G.R. No. 109024, November 25, 1999]

HEIRS OF MARCIANO SANGLE, PETITIONERS, VS. THE COURT OF APPEALS, DIRECTOR OF LANDS, DIONISIO PUNO, AND ISIDRA MESDE, RESPONDENTS.

D E C I S I O N

PURISIMA, J.:

This is a petition for review on *certiorari* seeking reversal of the decision of the Court of Appeals, dated February 18, 1993, which affirmed the Order of the Regional Trial Court of Cabanatuan City, dated October 8, 1991, denying petitioners' Motion for Reconstitution of Burned Records of Land Registration Case (LRC) No. 733.

The facts are undisputed:

On May 3, 1967, Marciano Sangle filed an application for registration of two (2) parcels of land, Lots 2 and 3 of Psu-46856 of the Aliaga Cadastre, docketed as LRC Case No. N-733, before the then Court of First Instance (now the Regional Trial Court of Nueva Ecija in Cabanatuan City). Subject parcels of land containing approximate areas of 52,831 square meters and 48,333 square meters, respectively, are situated in San Carlos, Aliaga, Nueva Ecija. (Annex "D") Sangle claimed ownership by purchase from the previous owners-possessors, spouses Mariano Castro and Maria Macalla.

Upon issuance of a certificate of publication by the Land Registration Commissioner, the Land Registration Court issued the order of general default against the whole world, except the Director of Lands, Director of Forestry and spouses Dionisio Puno and Isidra Mesde (respondents-spouses). The Director of Lands, through the Solicitor General, opposed the application on the ground that subject parcels of land form part of the public domain belonging to the government. Dionisio Puno, on the other hand, a lessee on said parcels of land, opposed the application insofar as Lot 3, with an area of 4.834 hectares, was concerned; claiming that the same was sold to him by the same spouses, Mariano Castro and Maria Macalla. (Annex C)

After trial, or on August 17, 1981, to be precise, the lower court rendered judgment; disposing thus:

"WHEREFORE, confirming the title of applicant Marciano Sangle, the Court hereby adjudicates and orders the registration of lots 2 and 3 of Plan Psu-46856, with their respective descriptions, both situated in the barrio of San Carlos, Municipality of Aliaga, Province of Nueva Ecija, in favor of Marciano Sangle, married to Gorgonia Tanchoco, of legal age, Filipino Citizen and a resident of 686 Evangelista Street, Sta. Cruz, Manila.

Once this decision becomes final, let the corresponding order for the issuance of the respective decrees issue therefor.

SO ORDERED." (Rollo, p. 10)

On October 16, 1981, the Solicitor General presented a notice of appeal from the decision of the lower court to the Court of Appeals, together with a motion for extension of time to submit a record on appeal.

On September 24, 1981, the other oppositors, respondents-spouses, filed their notice of appeal to the Court of Appeals, together with their cash appeal bond and record on appeal.

Meanwhile, on May 23, 1981, the applicant, Marciano Sangle, died. Accordingly, counsel sent in a motion for substitution of party applicant, and upon Order of the lower court, dated March 16, 1982, approval of the record on appeal was held in abeyance pending substitution of the deceased Marciano Sangle.

On June 14, 1987, fire gutted the building housing the lower court, destroying completely all court records. Notice of destruction of the court records of the Regional Trial Court of Nueva Ecija in Cabanatuan City was published on August 17, 1987, for four (4) consecutive weeks.

After the lapse of almost four (4) years or on February 1, 1991, to be exact, the heirs of applicant Marciano Sangle (the petitioners here), through another counsel, filed a motion for the issuance of decrees of registration, substituting them as registered owners of subject parcels of land, in lieu of Marciano Sangle. Petitioners contended that the lower court's decision in LRC Case No. 733, adjudicating subject parcels of land in favor of Marciano Sangle, has become final and executory.

Finding that at bar is a private case involving ricelands where the government appears to have no public interest to protect, the Office of the Solicitor General presented a Manifestation and Motion to Withdraw its appeal for the Director of Lands.

On the other hand, the respondents-spouses opposed the issuance of the decrees of registration over subject parcels of land in petitioners' favor, because they (respondents-spouses) have appealed from the decision of the lower court dated, August 17, 1981, and the Court of Appeals has not acted on their appeal.

After hearing, the lower court denied petitioners' motion without prejudice to the filing of a new application for land registration.

On September 6, 1991, instead of filing a new application, the petitioners presented a motion for reconstitution of the burned records in LRC Case No. N-733. In its Order, dated October 8, 1991, the lower court denied petitioners' motion on the ground that the right of petitioners to seek reconstitution had lapsed by prescription; ratiocinating thus :

"Acting on the Motion for the Reconstitution of Burned Records filed by the counsel for the heirs of the applicant in the above-entitled case, and it appearing that the aforesaid Motion was filed beyond six (6) months next following August 17, 1987, the date on which the general notice to lawyers, the officers mentioned in Section 1 of Act 3110, and to such other persons as might be interested, advising them of the destruction of the records, was published in a newspaper, once a week pursuant to Sections 2 and 29 of Act No. 3110, said Motion for Reconstitution is DENIED. " (Rollo, p. 12)"

Aggrieved by the aforesaid disposition below, petitioners appealed the same to the Court of Appeals. Docketed as CA-G.R. No. 35508, the appellate court affirmed the Order appealed from ; ruling as follows:

"The appeal is patently without merit.

x x x

x x x

x x x

Appellant does not deny that as stated in the order of the lower court dated October 8, 1991, the general notice to all litigants, lawyers, the officials designated by Act No. 3110, and all other interested persons, of the destruction of the records of the Regional Trial Court of Cabanatuan City as a result of the fire on June 14, 1987 that razed the court house to the ground, was published for four (4) consecutive weeks in August, 1987, so that under Sec. 29 of said Act appellant should have petitioned for the reconstitution of the records of Land Registration Case No. 733 within six (6) months from the completion of said publication. This she failed to do, and it was only almost four years later, or on September 6, 1991, that she asked for the reconstitution of the destroyed records of said case. The law, therefore, must be applied; i.e., as provided by the same Sec. 29 of Act 3110, appellant is deemed to have waived said reconstitution and should file the land registration case in question anew. The lower court, therefore, committed no error in denying appellant's motion for the reconstitution of said records `without prejudice to the filing of a new application.' x x x" (Rollo, p. 14)

Undaunted, petitioners brought the present petition, contending that:

I

THE COURT OF APPEALS ERRED OR COMMITTED GRAVE ABUSE OF DISCRETION IN DENYING THE RECONSTITUTION OF BURNED RECORDS OF LRC CASE NO. N-733;

II

THE DECISION OF THE COURT OF APPEALS IN THIS CASE IS NOT IN ACCORD WITH LAW AND THE APPLICABLE RULINGS OF THIS HONORABLE COURT.