

THIRD DIVISION

[G.R. No. 98328, October 09, 1997]

**JUAN C. CARVAJAL, PETITIONER, VS. COURT OF APPEALS AND
SOLID HOMES, INC., RESPONDENTS.
D E C I S I O N**

PANGANIBAN, J.:

Is there denial of due process if an applicant for land registration is unable to testify? May a land registration court, after it is convinced that the property subject of an application for registration under the torrens system is already covered by an existing certificate, dismiss such application and thus ignore petitioner's insistence on submitting further evidence of his alleged title? What constitutes sufficient evidence to show identity of the land applied for with the land already titled in favor of private respondent?

The Case

These are the main questions raised in this petition for review assailing the November 29, 1990 Decision^[1] of the Court of Appeals^[2] in CA-G.R. SP No. 18318, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, let this petition be, as it is hereby DISMISSED."^[3]

This petition also impugns the April 25, 1991 Court of Appeals Resolution^[4] which denied reconsideration.

The Facts

The facts found by public respondent are as follows:^[5]

"Petitioner is the applicant in a land registration case filed with Branch 71, Regional Trial Court of the Fourth Judicial Region stationed in Antipolo, Rizal. Sought to be brought by petitioner under the operation of the Land Registration Act (Act No. 496) is a 96,470 square meter lot denominated as Lots 6846-A, 6846-B, 6846-C and 6846-D. Copies of the application were ordered by respondent Court to be furnished (to) the National Land Titles and Deeds Registration Administration (NLTDRA) which on March 18, 1987 submitted a report recommending that applicant be order[ed] to amend his petition by including the names and complete postal addresses of the adjoining owners and correcting the discrepancy regarding the boundary lot number along line 2-3 of Lot 6846-D on plan Csd-04-005516-D. On order of respondent Court [trial

court], the petition was accordingly amended.

After the NLTDRA was notified that the case is [sic] initially set for hearing on December 7, 1987, the Acting Chief, Docket Division of the NLRDRA [sic] submitted another report recommending that petitioner be ordered to refer to the Bureau of Lands for corrections of the discrepancy existing in the directional bearing and area of Lot 6846-D, Csd-04-005516-D. The technical descriptions as corrected by the Bureau of Lands was [sic] submitted and the application was initially set for hearing on April 26, 1988. The 'Notice of Initial Hearing' stating that the application was set for [sic] heard on April 26, 1988 was thereafter issued by the NLTDRA.

On June 1, 1988, an order of general default was issued by respondent Court. Exempted from the order was one Annie Jimenez who filed an opposition to the application. On June 22, 1988, private respondent Solid Homes, Inc. filed its opposition stating that a land registered in its name under the Torrens System and covered by then TCT No. N-7873 is almost identical to the property subject of the application by petitioner. The opposition was not admitted considering that no motion to set aside the order of general default was filed by private respondent.

On June 28, 1988, private respondent filed a motion to lift the order of general default and to admit its opposition on the ground that its right would be adversely affected by the application. Acting on the motion and in order to avoid duplicity, the NLTDRA was directed to make the plotting of the relative position of the property covered by LRC Psd-245998 and embraced in TCT No. N-7873 and to submit its plotting to the Court for its guidance. In the same order dated July 1, 1988, respondent Court in the interest of justice set aside the order of general default in so far as private respondent was concerned and admitted private respondent's opposition.

On January 10, 1989, petitioner filed a motion praying that the opposition of private respondent be dismissed for the reason that the order issued by respondent court directing the NLRTDA [sic] to make a plotting of the land in question on the basis of the title submitted by the Registry of Deeds of Marikina Branch Manila released the private respondent from the duty and obligation of presenting evidence to prove that the land applied for is private and that there is apparent lack of interest on the part of private respondent to pursue its claim on account of its non-appearance despite the lapse of more than six months or to introduce evidence that will show that the land in question is covered by the alleged torrens certificate of title.

During the hearings conducted on September 13, 1988, September 27, 1988, October 4, 1988, October 11, 1988, October 18, 1988, November 22, 1988, December 6, 1988, petitioner presented his evidence on the question as to whether or not he had a registrable right over the land in question.

Pursuant to the court order dated July 1, 1988 directing the NLTDRA to

make the plotting of the relative position of the property covered by LRC Psd-245998 and embraced in TCT No. N-7873, the Land Registration Authority submitted a report dated December 22, 1986 [should be 1988] recommending that, after due hearing, the application for registration of petitioner be dismissed. The application was thus dismissed by respondent court in an order dated January 2, 1989. Considering, however, that the recommendation is [sic] for dismissal after due hearing, respondent judge issued an order dated January 10, 1989 setting for hearing on January 24, 1989 the 'Report' submitted by the Land Registration Authority. The hearing proceeded on February 8, 1989 with Engr. Silverio G. Perez, Chief, Department on Registration, Land Registration Authority being presented in connection with his 'Report' recommending the dismissal of the application after due hearing. On February 28, 1989, the petitioner's application for registration was dismissed.

On March 13, 1989, petitioner filed his motion to reconsider the February 28, 1989 dismissal of the application for registration to which private respondent filed an opposition dated March 20, 1989. The motion for reconsideration was denied in an order dated March 4, 1989.

On May 2, 1989 petitioner filed a second motion to reconsider the dismissal of his petition. On May 8, 1989, respondent judge issued an order requiring the parties as well as the engineers from the Land Registration Commission and the DENR to appear before respondent Court on June 5, 1989. The engineer from the Land Registration Commission was likewise directed to inform the court whether the property applied for by petitioner is indeed inside the titled property of private respondent.

After the Land Registration Authority submitted a report showing that there was indeed an overlapping of the four (4) parcels of land applied for by petitioner and the properties of Solid Homes under TCT 7873 and considering that the properties applied for are [sic] within the titled property and could not be the subject of an application for registration, the second motion to reconsider the dismissal of the application for registration was denied in an order dated July 5, 1989."

As earlier stated, the Court of Appeals affirmed the dismissal of the application for registration, and denied the subsequent motion for reconsideration. Hence, this recourse to this Court via Rule 45 of the Rules of Court.

The Issues

Petitioner submits the following issues:^[6]

"1. Whether or not an actual ground verification survey is required to establish the identity of the two parcels of land or whether TCT No. 7873 under Plan FP-1540 of Solid Homes Inc., situated in Barangay Mayamot,

Antipolo, Rizal is identical or similar to Lots 6846-A to 6846-D inclusive Cad. 585, Lungsod Silangan, Cadastre, situated in Mambogan, Antipolo, Rizal applied for under LRC Case No. 414 (-A), LRC Record No. N-60084;

2. Whether or not the petitioner was given (the) chance and the opportunity to be heard or allowed to fully introduce his evidence in the (proceeding) for Land Registration and (to) rest (his) case;

3. Whether the decision of the Honorable Court of Appeals is reversible."

Petitioner alleges that the "table survey" made by the Land Registration Authority and the geodetic engineer of the Land Management Bureau cannot serve as basis "for identifying" his land. "On the other hand, petitioner was able to establish the identity" of the land he applied for by "actual ground survey which was approved by the Director of Lands and reprocessed by the Land Registration Authority." He claims that if said land is "covered by private respondent's title, the Director of Lands and/or Regional Director will no(t) approve the survey." Petitioner also argues that the land in question is situated in "Mambogan, Antipolo, Rizal" while that of private respondent is in "Mayamot, Antipolo, Rizal." Survey Plan "FP-1540," which served as basis of private respondent's certificate of title, cannot be found; hence, according to petitioner, the "table survey" was anomalous. Petitioner adds that the "matter entirely wanting in this case (is) the identity or similarity of the realties."^[7] Petitioner concludes that the trial court should have ordered "actual ocular inspection and ground verification survey" of the properties involved.

Petitioner further maintains that he was denied due process when he, as an applicant in a land registration case, was not able to take the witness stand. According to petitioner, even his counsel hardly participated in the proceeding except to propound clarificatory questions during the examination of Engineer Silverio Perez of the Land Registration Authority.^[8]

Public respondent justified its dismissal of the appeal in this wise:^[9]

"Land already decreed and registered in an ordinary registration proceeding cannot again be subject of adjudication or settlement in a subsequent conducted proceeding (Land Titles and Deeds by Noblejas, 1968 Revised Edition, page 96). The 'Report' submitted by the Land Registration Authority (Annex 'B') and the Survey Division of the DENR (Annex 'RR') both indicate an overlapping of the lot applied for by petitioner and the lot covered by TCT N-7873 owned by private respondent Solid Homes, Inc. Even if petitioner were allowed to continue with the presentation of his evidence, the end result would still be the dismissal of his application for registration. Respondent Judge was therefore justified in cutting short the proceeding as the time to be spent in hearing petitioner's application could be used disposing the other cases pending with respondent court.

Anent the allegation that private respondent Solid Homes did not actively participate in the trials conducted to hear his evidence, suffice it to state

that it is counsel's prerogative to determine how he intends to pursue his case."

The Court's Ruling

The petition has no merit.

First Issue: Identity of the Property Applied For

We are not persuaded that the land petitioner applied for was not identical to private respondent's land which was already covered by a torrens certificate of title. The two reports prepared by the Land Registration Authority and the DENR Survey Division clearly showed that there was an overlapping between the two properties. Because the futility of petitioner's application was apparent, the trial court deemed it unnecessary to hear further evidence. We agree.

At the outset, we stress that there was nothing irregular in the order given by the trial court to the Land Registration Authority and the Survey Division of the DENR to submit reports on the location of the land covered by petitioner's application and private respondent's certificate of title. The authority of the land registration court to require the filing of additional papers to aid it in its determination of the propriety of the application was based on Section 21 of PD 1529:^[10]

"SEC. 21. *Requirement of additional facts and papers; ocular inspection.*
-- The court may require facts to be stated in the application in addition to those prescribed by this Decree not inconsistent therewith and may require the filing of any additional papers. It may also conduct an ocular inspection, if necessary."

From the above provision, it is also clear that ocular inspection of the property applied for was only discretionary, not mandatory. Likewise, the land registration court was not obliged to order the survey of the contested lot, especially when another government agency had already submitted a report finding that the contested lot was identical with that described in private respondent's certificate of title and recommending the dismissal of the application for registration.

Further, the order of the land registration court for the LRA and DENR to submit reports was in accordance with the purposes of the Land Registration Law:^[11]

"The purposes of the land registration law, in general, are: 'to ascertain once and for all the absolute title over a given landed property; to make, so far as it is possible, a certificate of title issued by the court to the owner of the land absolute proof of such title; to quiet title to the land and to put a stop forever to any question of legality to a title; and to decree that land title to be final, irrevocable and, undisputable. (citing *Benen vs. Tuason*, L-26127, June 28, 1974, 57 SCRA 531.)'