

THIRD DIVISION

[CA-G.R. SP NO. 132872, March 31, 2015]

J. KINGS & SONS COMPANY, INC., PETITIONER, VS. HON. THELMA CANLAS TRINIDAD- PE AGUIRRE, AS PRESIDING JUDGE OF RTC-BRANCH 129, CALOOCAN CITY, THE REGISTER OF DEEDS OF CALOOCAN CITY AND LCM THEATRICAL ENTERPRISES, INC., RESPONDENTS.

DECISION

BARZA, J.:

Before this Court is a Petition for *Certiorari*^[1] under Rule 65 of the Rules of Court, filed by herein petitioner J. King & Sons Company, Inc., (hereinafter referred to as "petitioner") which seeks to annul and set aside the *Summary Judgment*^[2] dated June 3, 2013, rendered by herein public respondent Hon. Judge Thelma Canlas Trinidad-Pe Aguirre, in Civil Case C-23044 and its *Order*^[3] dated September 25, 2013, denying the Motion for Reconsideration of the said decision, for allegedly having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

THE FACTS

The present case stemmed from a *Complaint for Declaration of Nullity of Title and Recovery of Possession, Injunction and Sum of Money*^[4] filed by herein private respondent LCM Theatrical Enterprises, Inc. (LCM) against petitioner, the Register of Deeds of Caloocan City, John Doe and Richard Roe which was docketed as Civil Case No. C-23044 and raffled to Branch 129 of the Regional Trial Court of Caloocan City presided by herein public respondent Hon. Judge Thelma Canlas Trinidad-Pe Aguirre (*public respondent*). The subject matter of the case was a parcel of land located in McArthur Highway cor. Calle Uno, Caloocan City (*subject property*) and covered by Transfer Certificate of Title (TCT) No. T-111236 of the Register of Deeds of Caloocan.

In its complaint, LCM alleged that the subject property was previously the subject matter of another case filed by it against a certain Eleuteria Rivera (*Rivera*) entitled "*LCM Theatrical Enterprises, Inc. vs Eleuteria Rivera, Brisbane Realty Corp., John Doe and the Register of Deeds of Caloocan*" after its possession was disturbed by the latter on the strength of her title, TCT No. C-314535, which originated from OCT No. 994 issued on April 19, 1917. Rivera's title was then bought by therein respondent Brisbane Realty Corp. (*Brisbane*) but it never obtained a title under its own name. The case filed by LCM was for Quieting of Title which was docketed as Civil Case No. C-491. LCM alleged therein that Rivera's title was a forgery since it was derived from OCT No. 994 issued on April 19, 1917, which was declared by the Supreme Court as null and void and all titles derived therefrom in the consolidated case of *Manotok Realty Inc. v. CLT Realty Development Corporation and Araneta Institute of Agriculture, Inc. v. Heirs of Jose B. Dimson (Manotok Case)*. LCM then

claimed that a Summary Judgment was rendered in its favor by the RTC in the above-mentioned case on September 23, 2010, which was followed on October 7, 2010 by a Decision which was likewise in its favor. Brisbane appealed this Decision to the Court of Appeals where the same is presently pending. LCM, however, claimed that it was able to obtain an order of Execution pending the appeal of the case.

LCM, however, found out during the execution of the Decision against Rivera and Brisbane that there were guards posted on the subject property which LCM claims prevented it from reclaiming possession of the subject property. LCM initially thought the guards posted at the subject property was Brisbane's but it learned subsequently that they belonged to herein petitioner, J. King and Sons Company, Inc.

LCM then alleged that it sent to petitioner a letter of demand wherein it stated to petitioner that its occupancy of the subject property is by virtue of TCT No. C-363610 which is a forgery because the Register of Deeds has certified that the said title is in fact in another owner's name and covered a different property. Furthermore, the title of the seller, TCT No. C-361988, from which petitioner derived its certificate of title is a derivative of OCT No. 994 issued on April 19, 1917 which, as earlier mentioned, was annulled by the Supreme Court in the *Manotok* Case. In response to the said letter, petitioner replied that it is a buyer in good faith and for value of the subject property. LCM also claimed that petitioner appended to its letter its title, **TCT No. 363 10**. According to LCM, petitioner emphasized that there is a space between "3" and "10" in the said letter. Petitioner also allegedly provided LCM in the same letter with copies of the titles from which its title, TCT No. 363 10, was derived.

Not satisfied by the explanation given, LCM filed the above-mentioned complaint against petitioner for declaration of nullity of title against petitioner.

For its part, petitioner specifically denied in its *Answer*^[5] that LCM is the owner of the subject property and that the source of the latter's title, TCT No. T-111236, is unknown and may have been acquired under questionable circumstances. Petitioner also stated that it was not a party to the earlier Quieting of Title case filed by LCM against Rivera and Brisbane and therefore cannot be bound by the decision made in the said case. Petitioner claims it acquired the subject property for value and in good faith pursuant to and by virtue of a Deed of Sale executed by it and the owners of the subject property, the Heirs of the Maysilo Estate. Consequently, it has acquired vested rights over the subject property and cannot be deprived of its ownership over the same by reason of the case mentioned by LCM. Likewise, petitioner also claims that it was not a party to the *Manotok* Case decided by the Supreme Court and consequently any pronouncement made therein by the High Court has no binding effect on it. Lastly, petitioner also denied LCM's allegation that its title is a forged title and claimed that it was actually LCM's title, TCT No. T-111236, which came from a spurious source as the same was derived merely from Caloocan Cadastral Survey No. 34, unlike its title, **TCT No. 363610**, which was derived from OCT No. 994.

During the proceedings in Civil Case No. C-23044, LCM filed a *Motion for Summary Judgment*,^[6] claiming there is no need to prolong the adjudication of rights of the parties here as there is no genuine triable issue of any material fact in the said case

as borne out by the allegations in the complaint and the defenses raised in the answer. LCM claimed that petitioner referred to its title as **TCT No. 363610** in the body of its *Answer* in paragraph 20. These title has been certified by the Register of Deeds to be in the name of Sabas Capili, et. al. and covers a different property located in the Barrio of Calimanapa and Balintawak, Caloocan City. The Register of Deeds has likewise certified that the said title has already been cancelled and no longer existing. Furthermore, petitioner also admitted that its title was derived from OCT 994, which was issued on April 17, 1917. LCM alleged that the said title and any title that traces its source thereto was declared null and void by the Supreme Court in the *Manotok* Case.

The said motion was granted by public respondent and a Summary Judgment dated June 3, 2013 was rendered in favor of LCM, the dispositive portion of which states as follows:

"Wherefore the Court hereby:

1. Declare Defendant J. King's 'TCT No. 363610 or TCT No. 36310' Null and Void;
2. Orders defendant King to surrender the subject property to Plaintiff;
3. Orders defendant (sic) King to pay Plaintiff rentals for occupying the subject property in the amount of Php500,000.00;
4. Orders defendant J. King to pay Plaintiff attorney's fees in the amount of Php500,000.00.

Cost against Defendants.

SO ORDERED."^[7]

Petitioner filed a Motion for Reconsideration to assail the said judgment but the same was denied by public respondent in an Order^[8] dated September 25, 2013.

Hence this petition.

ISSUES

Petitioner raises the following issues for Our resolution, *to wit*:

I.

THE PUBLIC RESPONDENT COMMITTED SERIOUS AND GRAVE REVERSIBLE ERROR WHEN IT GRANTED THE PRIVATE RESPONDENT'S MOTION FOR SUMMARY JUDGMENT DESPITE LACK OF SUPPORTING AFFIDAVITS, DEPOSITIONS AND ADMISSIONS TANTAMOUNT TO LACK OR IN EXCESS OF JURISDICTION.

II.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION SO GROSS THAT IT AMOUNTED TO LACK OR IN EXCESS OF JURISDICTION WHEN IT GRANTED PRIVATE RESPONDENT'S MOTION FOR SUMMARY JUDGMENT DESPITE THE EXISTENCE OF GENUINE AND MATERIAL

FACTUAL ISSUES WHICH REQUIRE A FULL BLOWN TRIAL PROCEEDINGS.

III.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LOSS OF JURISDICTION WHEN IT GRANTED PRIVATE RESPONDENT'S MOTION FOR SUMMARY JUDGMENT WITHOUT A HEARING.^[9]

RULING OF THE COURT

Essentially, the issues being raised by petitioner may be reduced into one: whether or not there was grave abuse of discretion amounting to lack or excess of jurisdiction on the part of public respondent when it granted LCM's motion for summary judgment.

The petition is not meritorious.

Special Civil Action for Certiorari

In the instant case, petitioner ascribes grave abuse of discretion on the part of public respondent for granting LCM's motion for summary judgment as there is a triable and genuine issue in the present case involving the title of LCM over the subject property which needs to be heard and litigated by the court *a quo*. Regarding this issue, petitioner claims LCM title was derived from a cadastral survey which was performed at a time when the subject property was already decreed and registered under OCT 994, the title from which petitioner claims its certificate of title has been derived. Furthermore, petitioner also claims that it made inquiries with the Register of Deeds and asked for a copy of TCT No. T-103549/T-514, the title which was cancelled and gave rise to the issuance of LCM's title, but the record's officer of the Register of Deeds certified that the same cannot be located thus allegedly giving rise to the conclusion that the issuance of LCM's title was made under suspicious circumstances. There was also allegedly grave abuse of discretion on the part of public respondent in granting LCM's Motion for Summary Judgment according to petitioner as the latter granted the said motion without conducting a hearing and despite the lack of supporting affidavits, depositions and admissions by LCM to support the same.

For its part, LCM contends that the summary judgment issued by public respondent was a final judgment as it finally disposes of the proceedings in Civil Case No. C-23044 and leaves nothing more for the court therein to do in respect thereto. LCM thus argues that petitioner should have appealed the said judgment instead of filing a petition for certiorari under Rule 65. The period to appeal the summary judgment rendered by public respondent, however, has already expired as petitioner failed to file its notice of appeal within 15 days from receiving the Order of the court *a quo* denying its motion for reconsideration. Citing the case of *Mercado v. Court of Appeals*,^[10] LCM argues that the present petition for certiorari should be dismissed as it cannot be used as a substitute for the lost remedy of appeal.

We agree with LCM.