

SECOND DIVISION

[CA-G.R. CV No. 100314, March 11, 2014]

IN RE: PETITION FOR ISSUANCE OF OWNER'S DUPLICATE COPY OF TRANSFER CERTIFICATE OF TITLE NOS. (T-117716) 16649 AND (T-117717) 16647 ROGELIO PASAMONTE, PETITIONER-APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLEE.

DECISION

BRUSELAS, JR. J.:

Assailed in this appeal is the *Resolution*^[1] that denied the petition filed by herein appellant Rogelio Pasamonte before the Regional Trial Court (RTC) of Valenzuela City for the issuance of owner's duplicate copies of Transfer Certificates of Title (TCT) over properties located in Valenzuela City. The appeal also questions the *Order*^[2] that denied the appellant's motion for reconsideration.^[3]

In the challenged resolution, the RTC held:

“WHEREFORE, finding that evidence is insufficient to substantiate the petition, the herein petition is hereby DENIED.

SO ORDERED.”^[4]

Involved in the controversy are two parcels of land covered by TCT No. (T-117716) 16649, with an area of 247 square meters, and TCT No. (T-117717) 16647, with an area of 221 square meters, both registered in the name of Ricardo D. De Guzman (Ricardo). On 16 May 1989, Ricardo declared that his owner's duplicate copies were missing and his *Affidavit of Loss* was annotated at the back of the TCTs.

These properties were allegedly sold to the appellant as evidenced by a photocopy of the *Deed of Absolute Sale* dated 10 March 1992.

An *Affidavit of Loss* executed by Carina Apelo, the appellant's wife, was also annotated at the back of the TCTs on 09 November 2001.

Claiming to be the owner of the subject properties, the petitioner filed a petition for issuance of owner's duplicate copies of TCT Nos. (T-117716) 16649 and (T-117717) 16647. He alleged that he purchased the properties despite the loss of the owner's duplicate copies because Ricardo showed him a certified copy of the TCTs under his name. Furthermore, he claimed that he has been occupying the properties and has been paying the real estate taxes thereof.

On 21 August 2009, the RTC denied the appellant's petition. It was not convinced that the appellant was a person *in interest* of the subject properties because the alleged sale transaction was not duly substantiated by the appellant. On the contrary, it concluded that the following observations tend to cast doubt on the

purported sale, to wit: the appellant's failure to present the original deed of absolute sale; the signatures of the appellant and his wife, although mentioned as vendees in the document, were nowhere to be seen in the document; no proof of payment was offered; the receipt of real estate tax payment was still under the name of Ricardo; and the second entry of Carina's *Affidavit of Loss* was made even prior to the purported sale.

The appellant moved for a reconsideration. He explained that the original *Deed of Absolute Sale* was presented to the RTC in another case and so, he secured a certified true copy of the same from the concerned Branch Clerk of Court. With respect to the other observations of the RTC, he contended that those were not grounds for the denial of his petition.

At the hearing of the motion for reconsideration, the appellant was allowed to present additional evidence *ex-parte* to support his petition.

In his *Formal Offer of Additional Evidence*, the appellant presented the following: (1) Photocopy of receipt dated 30 December 1989 to prove the partial payment of the purchase price; (2) Barangay Clearance dated 19 August 2010 to prove his possession of the subject properties; (3) Certification from Punong Barangay that he was the legal owner of the subject properties and that a deed of sale was entered into between him and Ricardo; and (4) Supplemental Affidavit.

The RTC denied the motion for reconsideration. It noted that since the receipt was made in the presence of two witnesses, the appellant could have requested them to corroborate his testimony as to the fact of the sale, but this he failed to do. It added that it could not give weight to the certification issued by the Punong Barangay because the latter could not validly certify as to the execution of the deed of sale between Ricardo and the appellant for he was neither present at the time of the execution nor a party to the said contract. Thus, it concluded:

"In light of the foregoing, and inasmuch as this Court finds no cogent reason to depart from its earlier ruling, the Motion for Reconsideration is hereby DENIED.

SO ORDERED."^[5]

The appellant came to us on appeal based on seven assigned errors which can be summarized into two; that the court *a quo* erred in denying the petition because he is not a person in *interest* and in doubting the validity of the deed of absolute sale and the receipt of the partial payment.

Essentially, the petitioner simply reiterates his arguments in his motion for reconsideration. He contends that the noted irregularities like the lack of his and his wife's signatures in the deed of absolute sale, failure to register the disputed document in the Registry of Deeds, failure to present the vendors or their heirs, that the receipt of real estate taxes payments was still under the names of the vendors, and that the second annotation of affidavit of loss executed by his wife, are not valid grounds for the denial of the petition. As to the proof of payment of the consideration, he insists that the *Deed of Absolute Sale* itself indicated that Ricardo received the amount of P80,000 from him. He further explains that while he is the one paying the real estate taxes, the receipt was still under the name of Ricardo because the subject properties are still registered in the latter's name. Moreover, he

asserts that his continuous and actual possession of the subject properties coupled with his payment of the real estate taxes supported his claim of ownership.

The Solicitor General, however, share the view of the RTC that the appellant failed to present substantial evidence to prove that he is a person *in interest* to petition for the issuance of new owner's duplicate copies of title. He posits that the photocopied *Deed of Absolute Sale* is in violation of the best evidence rule and therefore inadmissible in evidence.

We find no merit in the appeal.

The law applicable in petitions for issuance of new owner's duplicate certificates of title which are lost, stolen or destroyed, is Section 109 of Presidential Decree 1529 (P.D. 1529) which provides:

"Sec. 109. Notice and replacement of lost duplicate certificate. - In case of loss 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 fact 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."

In a petition for the issuance of a second owner's duplicate copy of a certificate of title in replacement of a lost one, the only questions to be resolved are: whether or not the original owner's duplicate copy has indeed been lost and whether the petitioner seeking the issuance of a new owner's duplicate title is the registered owner or other person in interest.^[6]

There is no dispute insofar as the first question is concerned. The fact of the loss of the owner's duplicate copy was duly annotated at the back of the certificates of title. The petitioner also presented a copy of the *Affidavit of Loss* executed by the registered owner dated 16 May 1989.

The controversy lies only on the issue of whether or not the appellant is considered as "other person in interest." It is the contention of the appellant that he has interest in the subject properties because he acquired the same by virtue of a *Deed of Absolute Sale* dated 10 March 1992. To support this allegation, he presented a photocopy of a certified true copy of the *Deed of Absolute Sale*, a photocopy of a receipt of his partial payment to Ricardo, and a Certification from *Punong Barangay* that a *Deed of Absolute Sale* was executed between the appellant and spouses De Guzman.

Inasmuch as the subject of inquiry is the *Deed of Absolute Sale*, it was incumbent on the appellant to adduce in evidence the original of the deed consistent with