

THIRTEENTH DIVISION

[CA-G.R. CV NO. 96583, November 24, 2014]

CITY OF MANILA, PLAINTIFF-APPELLANT, VS. METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM, DEFENDANT-APPELLEE.

DECISION

SADANG, J.:

This is an appeal from the Order^[1] dated December 3, 2008 of the Regional Trial Court (RTC) of Antipolo City, Branch 74, dismissing the complaint in Civil Case No. 00-5616, and the Order^[2] dated July 21, 2010 denying the motion for reconsideration.

Antecedents of the Appeal

Plaintiff-appellant City of Manila (hereafter, appellant), filed a Complaint for declaration of nullity of Letter of Instruction (LOI) No. 619, impleading the Metropolitan Waterworks and Sewerage System (MWSS) as defendant.

Appellant averred that it is a public corporation organized and existing by virtue of Republic Act No. 409, as amended. For decades, appellant has been the registered owner in fee simple and possessor of a parcel of land with an area of 15,071,451 sqm., more or less, situated in Marikina, Rizal, known as "*Boso Boso*," covered by Original Certificate of Title (OCT) No. 539 which was issued by the Register of Deeds of the Province of Rizal in December 1910. In 1977, during the administration of Mayor Ramon Bagatsing, appellant sought reconstitution of the lost owner's duplicate copy of OCT No. 539. The action resulted in a judicial controversy with MWSS which also asserted ownership of the land. Final judgment was rendered confirming appellant's ownership of the property. During the martial law years, MWSS worked on former President Marcos to issue, as he did, LOI 619 which peremptorily declared OCT No. 539 as "cancelled" and "ordered" the issuance of a new title. Thus, Transfer Certificate of Title (TCT) No. N-22606 was issued in the name of MWSS.

Appellant alleged that LOI No. 619 and, corollarily, the cancellation of OCT No. 539 and issuance of TCT No. N-22606 are void *ab initio* because they resulted in the taking of private property without due process and just compensation. Appellant maintained that OCT No. 539 is unaffected by LOI No. 619 which is an "act executed against the provisions of mandatory or prohibitory laws." Appellant also averred that mass housing projects were done by MWSS on the land, in violation of LOI No. 619, which resulted in the denudation of the trees lining the watershed.^[3]

MWSS filed an Answer, with compulsory counterclaim, alleging that that the subject land was formerly owned by a certain Lily Cortes. When the watershed reservation was surveyed the subject land was found to be on the slopes that drained into the

watershed, hence, the need to take it from private ownership to protect the watershed. Because appellant was then the entity running the Manila Water Supply, the land was acquired and titled in appellant's name although the funds came from the Insular Government. Upon the creation of the Manila Water District (MWD) in 1919 by virtue of Act 2832, the assets and liabilities of the Manila Water and Sewer Systems were transferred to the MWD. OCT No. 539 was among the documents turned over to the MWD.

MWSS alleged that appellant falsely alleged that the owner's copy of the title was lost or destroyed during the war, thus, the complaint states no sufficient cause of action. MWSS also averred that the validity of LOI No. 619 was settled in Section 3, paragraph 1, of the Article on Transitory Provisions of the 1973 Constitution. Pursuant to Proclamation No. 2480, MWSS is presently one of the government agencies administering the subject land which has, in fact, been reserved for resettlement purposes.^[4]

At the hearing on June 25, 2003, the parties offered their documentary evidence and agreed to submit the case for summary judgment without presenting testimonial evidence.^[5] However, in an Order dated January 20, 2005, the RTC denied the parties' joint oral motion for summary judgment on the ground that the pleadings raised a genuine issue as to who owns the subject property, which requires trial.^[6]

Subsequently, the case was set for presentation of appellant's evidence on September 13, 2007 and November 14, 2007. Appellant's counsel failed to appear at said hearings.

At the November 14, 2007 hearing, on oral motion of MWSS, the RTC issued an Order^[7] dismissing the complaint without prejudice for lack of interest to prosecute.

On December 11, 2007, appellant filed a Motion for Reconsideration of the November 14, 2007 Order averring that its non-presentation of evidence on September 13, 2007 and November 14, 2007 did not merit dismissal of the case. Appellant's counsel alleged that at the September 13, 2007 hearing, he sent a representative and filed a Manifestation and Motion, dated September 12, 2007 praying for the cancellation of said hearing and the RTC issued an Order granting the motion and resetting the hearing to November 14, 2007. Then, at the hearing on November 14, 2007, instead of presenting evidence, appellant filed a Second Motion for Summary Judgment^[8] insisting that the only issue to be resolved is the legality of LOI No. 619.

In an Order,^[9] dated March 18, 2008, the RTC granted appellant's Motion for Reconsideration and the November 14, 2007 Order was set aside and the case reinstated; however, appellant's counsel was directed to be more circumspect in his official dealings and not to expect the court to reset the hearing just because he filed a motion on the day of the hearing itself.^[10]

On September 10, 2008, the RTC issued an Order^[11] denying appellant's Second Motion for Summary Judgment and setting the initial trial on December 3, 2008. A day before said hearing, or on December 2, appellant filed a Motion for

Reconsideration^[12] of the September 10, 2008 Order.

At the hearing scheduled on December 3, 2008, only MWSS's counsel appeared. Appellant's counsel did not appear in spite of notice. Thus, the RTC issued an Order^[13] dismissing the case.

On July 21, 2010, the RTC issued an Order^[14] denying the motions for reconsideration of both the September 10, 2008 Order and the December 3, 2008 Order.

Appellant now appeals from the December 3, 2008 and July 21, 2010 Orders and raises these assignment of errors:^[15]

- I. THE LOWER COURT ERRED WHEN IT DISMISSED THE CASE NOTWITHSTANDING THE PENDENCY AND WITHOUT FIRST RESOLVING PLAINTIFF'S MOTION FOR RECONSIDERATION OF THE ORDER DENYING ITS SECOND MOTION FOR SUMMARY JUDGMENT;
- II. THE LOWER COURT ERRED WHEN IT DISMISSED THE CASE INSTEAD OF REFERRING THE SAME TO MEDIATION AS MANDATED BY THE SUPREME COURT IN A.M. NO. 08-8-12 SC PHILJA DATED AUGUST 12, 2008 DECLARING NOVEMBER 3 TO DECEMBER 15, 2008 AS SETTLEMENT PERIOD OF ALL CASE.
- III. THE LOWER COURT ERRED WHEN IT FOUND THAT THERE IS GENUINE ISSUE IN THIS CASE, HENCE, SUMMARY JUDGMENT IS NOT PROPER; AND,
- IV. THE LOWER COURT ERRED WHEN IT FOUND THAT THERE IS A NEED TO DETERMINE THE ISSUE OF OWNERSHIP OF THE SUBJECT PROPERTY BEFORE THE RELIEF PRAYED FOR MAY BE GRANTED.

RULING

The appeal is not impressed with merit.

Appellant maintains that the RTC erred in finding that there is a genuine factual issue. Appellant contends that "(a)lthough it may appear that there are factual issues as to the ownership of the subject property, the resolution of the same may be dispensed with as they are not necessary in resolving the main issue relating to the validity and constitutionality of the LOI (619)."^[16] The contention is untenable.

Summary judgment is a procedural device resorted to in order to avoid long drawn out litigations and useless delays. When the pleadings on file show that there are no genuine issues of fact to be tried, the Rules allow a party to obtain immediate relief by way of summary judgment, that is, when the facts are not in dispute, the court is allowed to decide the case summarily by applying the law to the material facts. Conversely, where the pleadings tender a genuine issue, summary judgment is not proper.^[17] Well-settled is the rule that a party who moves for summary judgment