

ESPIRITU BUNAGAN, PERPETUA INSO, AND GUADALUPE LUMONGSOD, PETITIONERS, VS. BRANCH VI, COURT OF FIRST INSTANCE OF CEBU, FILEMON OMPAD, ARSENIO OMPAD, NAPOLEON OMPAD, AND DIONISIA...

G.R. No. L-29073. April 18, 1980

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

Petition for certiorari, to annul and set aside the order of the Court of First Instance of Cebu, Branch VI, dated June 17, 1967, in Cadastral Case No. 17, LRC Record No. 946, Lot 1660 of the Opon Cadastre, directing the reconstitution of the original certificate of title in the name of "spouses Antonino Ompad and Dionisia Icong," as well as the order dated January 4, 1968, denying the motion to correct the order of June 17, 1967, and the original certificate of title issued pursuant thereto.

The record shows that on December 19, 1966, the herein private respondents Dionisia Icong and her children named Filemon, Manuel, Arsenio, and Napoleon, all surnamed Ompad, filed with the Court of First Instance of Cebu a petition for the reconstitution of the original certificate of title covering Lot 1660 of the Opon Cadastre in the name of "Antonio Ompad and Dionisia Icong, spouses," and once reconstituted, to cancel the same and another one issued in the name of "Filemon Ompad, married, of legal age, and resident of Lapulapu City; Manuel Ompad, widower, of legal age, and resident of Lapulapu City; Arsenio Ompad, married, of legal age, and resident of Lapulapu City; Napoleon Ompad, married, of legal age, and resident of Lapulapu City; and Dionisia Icong, surviving spouse of Antonio Ompad, of legal age and resident of Lapulapu City.[1]

The petition was opposed by the herein petitioner, Espiritu Bunagan, upon the ground that he is the owner of the lot in question, having bought the same from Guadalupe Lumong-sod and Perpetua Inso, legitimate heirs of the late Antonio Ompad; and that Dionisia Icong is merely a trustee of the lot in behalf of Antonio Ompad.[2]

On April 22, 1967, the petitioners therein moved to dismiss the opposition, contending that the said opposition constitute an adverse claim against the rights of Antonio Ompad and Dionisia Icong which cannot be entertained by the cadastral court.[3]

Acting upon the petition and the opposition, the cadastral court ruled that it could not entertain the claim of the oppositor which should be ventilated in an ordinary civil action, and gave due course to the petition. After hearing, the court issued an order, dated June 17, 1967, the dispositive portion of which reads, as follows:

"WHEREFORE, upon payment of the prescribed fees, the Register of Deeds of Lapulapu City is ordered to reconstitute the original certificate of title of Lot No. 1660, Opon Cadastre, located at Basak, Lapulapu City, in the names of the original owners - spouses Antonino Ompad and Dionisia Icong, based on its corresponding plan and technical description, Exhs. P and Q."[4]

Thereafter, Original Certificate of Title No. RO-0675 was issued in the name of "spouses Antonino Ompad and

Dionisia Icong."

On November 22, 1967, Espiritu Bunagan filed an urgent motion to correct the order of June 17, 1967 and the original certificate of title No. RO-9675, by substituting, as the registered owners of Lot 1660, "Antonio Ompad and Dionisia Icong" instead of "spouses Antonino Ompad and Dionisia Icong" upon the ground that upon the evidence presented (plan and technical description and the certificate of the Clerk of Court) the lot was adjudicated to "Antonio Ompad and Dionisia Icong" during the cadastral proceedings, and not to "spouses Antonino Ompad and Dionisia Icong." [5]

Dionisia Icong filed her opposition thereto on December 8, 1967, claiming that the issuance of the certificate of title in the name of "spouses Antonino Ompad and Dionisia Icong" is warranted under Section 112 of the Land Registration Act which authorizes alteration or amendment of the title upon proper petition. [6]

On January 4, 1968, the respondent Court issued an order, denying the motion to correct the order of June 17, 1967, saying:

"Considering that the court, sitting as a cadastral court, did not entertain the claim of the oppositor which, according to then Judge Jose N. Mendoza, 'may be ventilated in a separate civil action' this Court, likewise, cannot entertain the Urgent Motion to Correct Order of Honorable Court dated June 17, 1967 and Entry of Original Certificate of Title No. RO-0675 by the Register of Deeds of Lapulapu City, for the same reason." [7]

Now claiming that the orders dated June 17, 1967 and January 4, 1968 have been issued in excess of jurisdiction or with grave abuse of discretion, the petitioners have filed the instant recourse to annul and set aside the said orders.

There is merit in the petition. The reconstitution or reconstruction of a certificate of title literally and within the meaning of Republic Act No. 26 denotes restoration of the instrument which is supposed to have been lost or destroyed in its original form and condition. [8] The purpose of the reconstitution of any document, book or record is to have the same reproduced, after observing the procedure prescribed by law, in the same form they were when the loss or destruction occurred. If the certificate of title covering the lot was decreed in the form of "Antonio Ompad and Dionisia Icong," as in this case, the reconstituted certificate of title should likewise be in the name of the owners as they appeared in the lost or destroyed certificate of title sought to be reconstituted. Any change that should be made in the ownership of the property should be the subject of a separate suit. [9]

In the instant case, it appears that the petition filed on December 19, 1966 is not merely for the reconstitution of a lost or destroyed certificate of title. Dionisia Icong and her children also wanted the correction of the name of the owners of the lot from "Antonio Ompad and Dionisia Icong" to "spouses Antonino Ompad and Dionisia Icong" which involves a material change in the certificate of title, a change which, not being consented to by the herein petitioners whose interests are affected thereby, cannot be authorized under the summary proceedings for reconstitution prescribed in Republic Act No. 26. A change of this nature raises an issue which should be ventilated and decided in an ordinary civil action. [10]

The claim of Dionisia Icong that the change is authorized under Section 112 of the Land Registration Act is without merit. The proceedings authorized in Section 112 could not be availed of in view of the opposition of the herein petitioners, for such proceedings apply only if there is unanimity among the parties or there is no adverse claim or serious objection on the part of any party in interest. [11]

It would result that the respondent Court committed an error in re-registering Lot 1660 of the Opon Cadastre in the name of "spouses Antonino Ompad and Dionisia Icong."

WHEREFORE, the orders of June 17, 1967 and January 4, 1968 are modified in the sense that the petition for

reconstitution is granted only insofar as it orders the reconstitution of the original certificate of title covering Lot 1660 of the Opon Cadastre in the name of "Antonio Ompad and Dionisia Icong" and the Register of Deeds of Lapulapu City is here-by ordered to correct the name of the regis-tered owners in Original Certificate of Title No. RO-0675 accordingly.

Barredo, (Chairman), Antonio, Aquino, Santos, and Abad Santos, JJ., concur.

[1] Rollo, p. 8.

[2] Id., p. 11.

[3] Id., p. 15.

[4] Id., p. 17.

[5] Id., p. 24.

[6] Id., p. 32.

[7] Id., p. 35.

[8] Vda. de Anciano vs. Caballes, 93 Phil. 875.

[9] Gov't of P.I. vs. Abada, 48 O.G. No. 4, April, 1952, p. 1372.

[10] Bachoco vs. Esperancilla, 105 Phil. 404.

[11] Enriquez vs. Atienza, 100 Phil. 1072 and other cases cited therein.

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