

**GREGORIO P. MANONGDO AND SALVACION CHUA MANONGDO,
PETITIONERS, VS. TEODORA VDA. DE ALBANO, AND HONORABLE
ARSENIO SANTOS, JUDGE, CFI OF MANILA, BRANCH IV,
RESPONDENTS.**

G.R. No. L-24234. January 22, 1980

Ponente: ANTONIO, J.

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ANTONIO, J.:

Petition for certiorari to nullify the Order dated November 16, 1964 issued by respondent Judge in LRC Case No. Cad. Rec. No. 2724, denying petitioners' motion to dismiss on the ground of lack of jurisdiction.

The records of the case reveal the following pertinent facts:

A petition dated December 13, 1963 was filed by one Avelina de Bringas, alleging that she was the vendee of a parcel of land situated at Constancia Street, Sampaloc, Manila, covered by Transfer Certificate of Title No. 59001 of the Register of Deeds of Manila and that the owner's duplicate of the afore-mentioned title was destroyed on or about April 1, 1963 when the vendor's house at San Anton Street, Sampaloc, Manila was burned. It was prayed that the owner's duplicate that was burned be declared as null and void and another one be issued in lieu thereof. Attached as annexes to the petition were the alleged "Deed of Absolute Sale of Real Property"[1] and an "Affidavit",[2] purporting to have been executed by the alleged vendor, herein respondent Teodora Vda. dei Albano, stating that she has conveyed the aforesaid property to Avelina de Bringas; that due to her old age, she was not in a physical condition to appear in court for the petition for reissuance of another owner's duplicate of TCT No. 59001 which was destroyed in a fire at San Anton Street, Sampaloc, Manila; and that she confirms and ratifies the right of Avelina de Bringas as absolute owner, qualifying her to petition the court for reissuance of the owner's duplicate of said transfer certificate of title. The affidavit was notarized before one Amado O. Sison in Manila on December 10, 1963.

Acting on the following petition and finding the allegations thereof to have been proved by the testimony of Avelina de Bringas, petitioner-vendee, the Court of First Instance of Manila, Branch IV, issued an Order, dated December 26, 1963, ordering the Register of Deeds for the City of Manila "to issue another owner's duplicate of Transfer Certificate of Title No. 59001 of the Land Records of the said City in the name of Teodora Vda. dei Albano, in lieu of the lost one which is hereby declared cancelled and of no further effect." [3]

On the basis of said Order, the Register of Deeds issued another owner's duplicate of TCT No. 59001.

Armed with the Deed of Absolute Sale and the newly issued owner's duplicate of TCT No. 59001, Avelina de Bringas succeeded in obtaining Transfer Certificate of Title No. 73609 in her name. Thereafter, she sold the property to herein petitioner-spouses Gregorio P. Manongdo and Salvacion Chua Manongdo, in whose names Transfer Certificate of Title No. 73740 was subsequently issued.

Thereafter, or less than three months later, on March 20, 1964, respondent Teodora Vda. dei Albano filed a

petition which was amended on April 20, 1964. The amended petition was filed under the same case, LRC Cad. Record No. 2724, and alleged that therein petitioner, Teodora Vda. dei Albano, is the true and registered owner of the parcel of land covered by TCT No. 59001 of the Register of Deeds of Manila, as well as the building of strong materials constructed thereon; that the alleged Deed of Absolute Sale in favor of Avelina de Bringas "is a forged document and is, therefore, null and void ab initio, as it was not signed by petitioner and she did not appear before Notary Public Amado O. Sison"; that the alleged "Affidavit" was likewise not signed by her or by anyone authorized to sign in her behalf; that contrary to the allegations of Avelina de Bringas, the owner's duplicate has always been and still is in her possession and has never been destroyed or burned; that her residence has never been burned; that she is still young enough and is still in good physical condition, able to appear in any court for any purpose; that she has never resided at San Anton Street, Sampaloc, Manila, nor at 65 Int., 5th Avenue, Grace Park, Caloocan City; that she was not notified of the filing of the petition for reissuance of the owner's duplicate of TCT No. 59001 at her address at 608 Constancia Street, Sampaloc, Manila, the same address stated in TCT No. 59001. It was prayed that an order be issued confirming the validity of and revalidating the owner's duplicate of TCT No. 59001 in the name and possession of petitioner and declaring that the same has never lost its legal force and effect; declaring as null and void ab initio the order directing the reissuance of the owner's copy of TCT No. 59001 as well as the owner's copy issued pursuant thereto; and declaring as null and void TCT No. 73609 in the name of Avelina de Bringas and TCT No. 73740 in the name of spouses Gregorio P. Manongdo and Salvacion Chua Manongdo, the same being derivative titles based on the forged Deed of Absolute Sale. It was likewise prayed that the matter be referred to the City Fiscal's Office for investigation and prosecution of the guilty parties, and such other reliefs as may be equitable in the premises.

The above-mentioned petition of Teodora Vda. dei Albano was opposed by herein petitioners, spouses Gregorio P. Manongdo and Salvacion Chua Manongdo, alleging that they are the absolute owners of the land in question, as evidenced by TCT No. 73740 of the Register of Deeds for Manila on January 13, 1964; that they acquired ownership thereof by virtue of a Deed of Absolute Sale executed by Avelina de Bringas in their favor on January 9, 1964, acknowledged before Notary Public Amado O. Sison of Manila; that petitioner can no longer ask the court to confirm the validity of her TCT No. 59001, the same having been cancelled by order of the court, and TCT No. 73609 in the name of Avelina de Bringas having been issued in lieu thereof; that oppositor-spouses are innocent purchasers for value and as such are the true and absolute owners of the land in question, according to the Land Registration Act and Supreme Court decisions; that petitioner's recourse is an action for damages against the parties guilty of having defrauded her and not a petition for reconfirmation of her title, or to seek recovery for damages against the Assurance Fund. It was prayed that the petition of Teodora Vda. dei Albano be dismissed.

Subsequently, oppositor spouses filed a Motion to Dismiss dated October 15, 1964, alleging that the court has no jurisdiction over the subject matter of the case, since, acting as a land registration court, it has a special and limited jurisdiction and cannot determine questions involving ownership or title to property; and that the petition states no cause of action, considering that oppositors are not the ones guilty of fraud and the alleged forger was not made a party to the case.

The Motion to Dismiss was opposed by petitioner Teodora Vda. dei Albano, alleging that the court has jurisdiction because the only relief sought by petitioner is the setting aside of the court's own order directing the issuance of another owner's duplicate of TCT No. 59001 and to confirm the validity of the owner's duplicate of TCT No. 59001 and to confirm the validity of the owner's duplicate which was never lost and still is in the possession of petitioner. It was further alleged that petitioner "has established thru her testimony the incontrovertible fact that she, as the registered owner, did not file with this Honorable Court any petition that her owner's duplicate of title (Exh. J) was lost (tsn 4, session of Sept. 23, 1964). The petitioner likewise testified that she was not notified of the filing of the petition (Exh. B; Annex A, Petition) nor of the issuance of the order (Exh.

E; Annex B, Petition; tsn 7, session of Sept. 23, 1964). The said order is therefore null and void ab initio, having been issued on the basis of a false petition not filed by the registered owner of the property and having been issued without notice to the registered owner, * * *".[4]

As to the allegation of lack of cause of action due to the non-inclusion of Avelina de Bringas, petitioner countered that said person was served by registered mail with a copy of the amended petition but she chose not to appear in court.

Further, it was alleged that oppositors are not innocent purchasers for value considering that the petitioner and her family have lived on the subject premises for thirty-nine (39) years and neither oppositors nor any other person has ever approached her to inspect the same or inquire whether the property is for sale.

Oppositors filed their reply to the opposition to the motion to dismiss, reiterating that the court has no jurisdiction because, aside from setting aside of the questioned order, petitioner likewise raises the issues of (1) the validity of the sale between her and Avelina de Bringas; (2) the existence or non-existence of forgery in connection with the said sale; and (3) the ownership of the property as between petitioners and oppositors. Likewise, it was stated that there was notice of the first petition to Teodora Vda. dei Albano because a notice thereof was posted by the Sheriff on the bulletin board of the City Hall.

Acting on the foregoing, the Court issued the questioned Order of November 16, 1964, reading as follows:

"Finding no merit in the motion to dismiss dated October 15, 1964, considering that the instant petition is basically one seeking to set aside an order for the issuance of a new owner's duplicate of Transfer Certificate of Title No. 59001 in lieu of the last one, issued by this Court on December 26, 1963, and which is well within the power of this Court to act upon, said motion is hereby denied and the herein oppositors directed to present evidence in support of their opposition.

"SO ORDERED."[5]

Assailing the above-quoted Order, petitioner-spouses filed the instant petition for certiorari, alleging that respondent court committed grave abuse of discretion in denying petitioners' motion to dismiss. It is urged that respondent Albano's petition before the court a quo raises matters that should be decided by the court not in its capacity as a land registration court but as a regular court of justice. "The proceedings provided in the Land Registration Act", according to petitioners, "being summary in nature * * * are inadequate for the litigation of issues properly pertaining to ordinary civil actions. Thus, in a case, it was held that 'questions involving ownership or relating to validity or discharge of a mortgage should be properly ventilated in an ordinary proceeding' (RFC vs. Alto Surety and Insurance Co., G.R. No. L-1433, March 24, 1960)"[6] and a land registration court cannot pass upon questions regarding validity of contracts or their failure to express the true intention of the parties. Further, it is averred that the petition states no cause of action and that the doctrine of innocent purchaser for value applies in favor of petitioners. Finally, petitioners pray that the questioned Order be annulled and respondent Judge be declared without jurisdiction to take cognizance of the case subject matter of the petition. A writ of preliminary injunction was likewise prayed for.

Respondent Teodora Vda. dei Albano filed her answer to the petition, submitting that the only issue raised in the petition is "whether or not respondent court committed grave abuse of discretion in denying petitioners' motion to dismiss based on the alleged lack of jurisdiction of the respondent court over the subject matter of the case." In support of the proposition that respondent court is not without jurisdiction over the case, respondent Albano asserts that the only legal issue presented to the respondent court for resolution is whether or not said court, acting as a land registration court, can set aside its own order which granted the petition filed by Avelina de Bringas by ordering the Register of Deeds of Manila to issue another owner's duplicate of TCT No. 59001 on the basis of the

false allegation that the owner's duplicate had been burned and lost. "The respondent Court was not called upon to decide any other issue that may subsequently be raised in connection therewith, such as the determination of the question of ownership or title to the property. Such incidental issue may be properly ventilated by the parties in a contentious litigation." [7]

We are in accord with respondent Albano's position that the only issue to be resolved is whether or not respondent court committed grave abuse of discretion in not dismissing respondent's petition and, ultimately, whether or not respondent court, sitting as a land registration court, has jurisdiction to take cognizance of the petition of respondent Teodora Vda. dei Albano.

The instant petition is without merit. We find that respondent court has jurisdiction to pass upon the issues raised by respondent Teodora Vda. dei Albano in her Amended Petition of April 20, 1964, namely: (1) whether or not the owner's copy of TCT No. 59001 was lost or destroyed in a fire, as alleged by Avelina de Bringas in her petition for reissuance of another copy thereof; and (2) whether or not Teodora Vda. dei Albano signed the "Affidavit" wherein she alleged that she was old and infirm and was thus authorizing Avelina de Bringas, as vendee, to bring the petition for reissuance of another owner's copy of TCT No. 59001. In fine, the ultimate issue is whether or not the petition for issuance of another owner's copy of TCT No. 59001 was made by or with authority of the registered owner or by a person without any right to do so.

The foregoing are issues which affect only the proceedings had in LRC Case No. Cad. Rec. No. 2724 and are designed to determine the truth or falsity of the allegations on the basis of which respondent court issued the questioned order directing the Register of Deeds to issue another owner's copy of TCT No. 59001. It will be recalled that in the petition filed by Avelina de Bringas, respondent court accepted evidence and ruled upon the issue of whether or not the owner's copy was lost. Therefore, there is no reason why it cannot now pass upon the same issue, considering that private respondent was able to produce the same and to show that it was not lost. Moreover, it was the same court that permitted the proceeding without the presence of the registered owner, relying on the affidavit allegedly executed by Albano stating that she was too old to appear in court, and it should be given the opportunity to rectify its own error, if such error had been committed.

The issue of whether or not the "Deed of Absolute Sale of Real Property" in favor of Avelina de Bringas was forged, as well as other issues with respect to ownership of the property, shall not be determined by respondent court for, as admitted by private respondent, these are matters to be threshed out in an independent proceeding. Further, the remedies sought by private respondent before respondent court were primarily for the setting aside of its own order directing the issuance of another owner's copy of TCT NO. 59001, the declaration of nullity of the owner's copy which was issued pursuant to said order, and the confirmation of the existence of the owner's copy which allegedly was never lost but was in the possession of the registered owner. However, the other reliefs sought, namely, the cancellation of TCT NO. 73609 in the name of Avelina de Bringas and the nullification of TCT No. 73740 in the name of petitioner spouses, may be decided in the independent action for recovery of ownership, since it would involve the issues of whether or not the property was sold to Avelina de Bringas and whether or not petitioner spouses are innocent purchasers for value, among others, which are not properly cognizable by respondent court.

There can be no question that a court of competent jurisdiction is vested with authority to set aside its own order in a case where such setting aside is warranted by the Rules and in order to prevent a miscarriage of justice, and the same rule applies to a court of first instance acting as a land registration court where rules of practice, procedure and evidence obtaining in an ordinary court are likewise applicable. [8] This applies with more vigor in a case wherein it is claimed that there is a denial of the right to due process because of lack of notice to the party who is most directly and substantially concerned.

WHEREFORE, in view of all the foregoing, the instant petition is hereby DISMISSED. No pronouncement as to costs.

Aquino, Concepcion, Jr., Santos, and Abad Santos, JJ., concur.

Barredo, J., (Chairman), I concur. This is unquestionably a case of fraud practiced upon the court that was made to believe the loss of the owner's copy of the certificate of title thru fire, when in truth there had been no such fire. I would, however, suggest that the proper criminal action be taken against the guilty parties.

[1] Annex "A-1", Petition, p. 24, Rollo.

[2] Annex "A-2", Petition, p. 25, Rollo.

[3] Annex "B", Petition, p. 26, Rollo.

[4] Annex "G", Petition, p. 60, Rollo.

[5] Annex "I", Petition, p. 70, Rollo.

[6] Rollo, p. 9.

[7] Rollo, p. 84.

[8] Heirs of Ceferino Morales, etc., et al. v. Court of Appeals, et al., L-37229, October 21, 1975, 67 SCRA 304.

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