

CONSORCIA VILLAVIEJA-VILLANUEVA, REPRESENTED BY HER AIF LUZ C. ARAULLO, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

Before Us is an Appeal[1] from the Resolution[2] dated December 22, 2011 of the Regional Trial Court, Sixth (6th) Judicial Region, Branch 12, San Jose, Antique in RTC Cad. Case No. 10-0206 for Cancellation of Decree No. 624072, Re-issuance of a New Decree and Original Certificate of Title for Lot No. 655 of the Sibalom Cadastre.

The Antecedents[3]

Subject of the present controversy is Lot No. 655 situated at Barangay Egana, Sibalom, Antique, which is particularly described as follows:

“Bounded on the NW., along lines 1-2-3-4-5-6-7-8-9-10 by Catungan Creek; on the NE., along line 10-11-12-13-14-15-16-17-18-19 by Lot 630 Cad. 247 Sibalom Cadastre; on the SE., along line 19-20-21-22-23-24-25-26 by Creek; on the SW., along line 26-27-28-29 by Service Road and Irrigation Canal; along line 29-30-31-32-33-34-35-36-37-38-39-40 by Creek; on the NW., along line 40-1 by Lot 571, Cad. 247 Sibalom Cadastre containing an area of ONE HUNDRED THIRTEEN THOUSAND THREE HUNDRED FORTY FOUR (113,344) SQUARE METERS, more or less.”[4]

Petitioner-appellee Consorcía Villavieja-Villanueva, represented by her attorney-in-fact, Luz C. Araullo, alleged that she is a lawful owner and actual possessor of a portion of Lot No. 655 of the Sibalom Cadastre, Antique.

She acquired the property by virtue of the Decision[5] dated March 7, 1932 of the Court of First Instance of Antique, 29th Judicial District in Cadastral Case No. 23, which declared herein petitioner-appellee as one of the adjudicatees of Lot No. 655 of the Sibalom Cadastre. Moreover, petitioner-appellee being the only living and surviving adjudicatee of the said lot, as her siblings predeceased her without issue, adjudicated unto herself their respective shares.[6] However, petitioner-appellee has no personal knowledge as to whether a certificate of title has ever been issued for such property.

Upon query with the Registry of Deeds, Antique, a Certification was issued stating that since the issuance of Decree No. 624072 in February 17, 1937, their office has no record that an Original Certificate of Title was issued for the said property. This was also supported by Certifications[7] issued by the Land Registration Authority in Manila stating that indeed Decree No. 624072 was issued, but, a copy of the said decree was not among the salvaged decrees in their possession. Presumably, it was one of those lost or destroyed during the last World War. Having no other recourse, petitioner-appellee asked for the cancellation of Decree No. 624072, the re-issuance of a new decree and the corresponding certificate of title thereof.

The Ruling of the Regional Trial Court

In a Resolution[8] dated December 22, 2011, the Regional Trial Court, Branch 12, San Jose, Antique in RTC Cad.

Case No. 10-0206 ruled in favor of the petitioner-appellee by granting the petition. The dispositive portion of the assailed resolution reads:

“PREMISES CONSIDERED, the Commissioner's Report filed on December 22, 2011, is hereby approved and adopted as an integral part of this Resolution and the Petition dated February 4, 2010 is hereby GRANTED.

NECESSARILY, the Administrator of the Land Registration Authority (LRA) is hereby directed to cancel Decree No. 624072 issued for Lot No. 655 of the Cadastral Survey of Sibalom, Antique, on February 17, 1937. In its stead, he is further directed to cause to be prepared a new decree of registration in the names of the decreed owners, as well as the original and duplicate copies of the corresponding original certificate of title for Lot No. 655 of the Sibalom (Antique) Cadastre, which decree of registration shall be signed by him, entered and filed in the LRA, and thereafter, to send the same to the Register of Deeds of Antique, for entry in the registration book, pursuant to Section 39 of P.D. No. 1529.

Upon receipt of the original and duplicate copies of the original certificate of title for Lot No. 655 of the Sibalom (Antique) Cadastre, the Registrar of Deeds for the province of Antique is hereby enjoined to enter the same in his record book and shall be numbered, dated, signed and sealed with the seal of his office and thereafter, to notify the petitioner of such facts, conformably with Section 40 of P.D. 1529, otherwise known as the Property Registration Decree.

SO ORDERED.”[9]

Hence, this appeal.

Assignment of Error

THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR CANCELLATION OF DECREE NO. 624072, RE-ISSUANCE OF A NEW DECREE AND ORIGINAL CERTIFICATE OF TITLE FOR LOT NO. 655 OF THE SIBALOM CADASTRE (ANTIQUE) IN CLEAR VIOLATION OF SECTION 2 OF R.A. NO. 26 (AN ACT PROVIDING A SPECIAL PROCEDURE FOR THE RECONSTITUTION OF TORRENS CERTIFICATE OF TITLE LOST OR DESTROYED).

The Ruling of this Court

The appeal is bereft of merit.

Primarily, the oppositor-appellant Republic, through the Office of the Solicitor General (OSG) argued that the petitioner-appellee should have complied with Section 2 of R.A. No. 26 (An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed).

In reply, petitioner-appellee posited that the cited provision is inapplicable since a torrens certificate of title is yet to be issued in the instant case.

We find the contention of the petitioner-appellee persuasive.

To properly expound on this matter, We deem it imperative to ascertain the purpose or intention of Section 2 of R.A. No. 26 (An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed), which states:

Sec. 2. Original certificate of title shall be reconstituted from such of the sources hereunder enumerated as may be available in the following order:

- (a) The owner's duplicate of the certificate of title;
- (b) The co-owner's mortgagee's, or lessee's duplicate of the certificate of title;

- (c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;
- (d) An authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original certificate of title was issued;
- (e) A document on file in the Registry of Deeds by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original has been registered; and
- (f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title. (emphasis supplied)

Evidently, it can be inferred that for this specific provision to be applicable, it must be proven that a certificate of title of the property has already been issued, as it pertains to the reconstitution of an original certificate of title which subsequently was lost or destroyed. It must also be emphasized that this section refers exclusively to lost or damaged original certificates of title only.

Anent thereto, in the case at bench, the Certification[10] dated January 26, 2010 issued by the Registry of Deeds of San Jose, Antique did not categorically state that a certificate of title corresponding to the subject property has already been issued. In fact, the certification elucidates that the Registry of Deeds was not sure whether or not a title was ever issued. Thus, clearly implying an uncertainty as to the issuance or existence of the title itself, and not just merely as to whether it was lost or damaged. Significant portion of the said certification reads as follows:

This is to certify that this Office cannot ascertain whether there was a title issued or not to Lot No. 655 of the Cadastral Survey of Sibalom, Antique for our records were either lost and/or destroyed during the last World War or when the Provincial Capitol was burned last December, 1957. (emphasis supplied)

Moreover, the Land Registration Authority issued a Certification[11] dated January 18, 2010 stating that Decree No. 624072 was issued on February 17, 1937 for Lot No. 655. Another Certification[12] was again issued by the same Office on January 19, 2010, stating further that Decree No. 624072 was not among those salvaged decrees on file. In view thereof, the LRA presumed that such a copy was lost or destroyed as a consequence of the last World War.

Based upon these certifications issued by the pertinent authorities, We can conclude that what is certain is only the issuance of a decree over Lot No. 655, but such decree was lost or destroyed. However, as to the original certificate of title, We cannot make the same conclusion, as there was no sufficient and established basis to declare that a title was indeed issued for Lot No. 655.

In *Alipoon v. Court of Appeals*,[13] it was specifically stated that R.A. No. 26 deals only with the procedure in the reconstitution of a certificate of title, thus:

Republic Act No. 26 as amended, is the special law which provides for a specific procedure for the reconstitution of Torrens certificates of title lost or destroyed. Sections 2 and 3 thereof provide how original certificate of title and transfer certificates of title shall be respectively reconstituted and from what specific sources successively enumerated therein such reconstitution shall be made. Under the law, reconstitution is limited to lost or destroyed Torrens certificates of titles on file with the Register of Deeds. x x x. (emphasis supplied)

Verily, the cited jurisprudence, as well as the certifications presented further support the claim of the petitioner-appellee that Section 2 of R.A. No. 26 finds no application in the present case, as such provision only refers to lost or damaged original certificates of title. It bears stressing that in the instant case, there is no title to

speak of, because in the first place there was paucity of evidence that indeed one has been issued for Lot No. 655. To reiterate, what was only proven through preponderance of evidence was the fact that a decree was issued for the same, and such a decree was either lost or damaged during the war.

Furthermore, We note that the Report[14] dated July 28, 2010 submitted by the Land Registration Authority (LRA) to the trial court, in relation to the petition filed by the petitioner-appellee, provided guidelines as to the proper procedure to be undertaken by an interested party, however, such a recourse would still depend upon the circumstances attendant in the case. Portions of the report are as follows:

- After due verification of our “Record Book of Cadastral Lots”, it was found that Lot No. 655 of Sibalom Cadastre, Province of Antique, Cad. Case No. 23, LRC Cad. Record No. 1228, was issued Decree No. 624072 on February 17, 1937, pursuant to the decision rendered thereon;
- Consistent with the presumption that official duty has been regularly performed, a copy of the said decree was forwarded to the Registry of Deeds for the Province of Antique for transcription in the Registration Book and that a corresponding Original Certificate of Title was issued therefore;
- In order to negate or overcome such a presumption, it is recommended that the Registrar of Deeds for the Province of Antique as well as the DENR Offices: Land Management Bureau(LMB), Plaza Cervantes, Binondo, Manila and Community Environment and Natural Resources Office (CENRO), San Jose, be ordered to submit a categorical certification to the court that no title/land patent had been issued by their respective offices over Lot No. 655, Sibalom Cadastre;
- If a certificate of Title has been issued pursuant to Decree No. 624072, it is for the party-in-interest to file a petition for reconstitution of the lost or destroyed Original Certificate of Title in accordance with the provisions of Republic Act No. 26;
- On the other hand, if the non-issuance of the Original Certificate of Title can convincingly be shown to overcome the legal presumption of regularity in the performance of official function, the cancellation of the previously issued decree (Decree No. 624072) and re-issuance of a new one in the name of the same decreed owner may be ordered by the Honorable Court.

WHEREFORE, the foregoing is respectfully submitted to the Honorable Court for its information with the recommendation that the appropriate procedure to be taken by the party-in-interest is to file a Petition for Reconstitution of the lost or destroyed Original Certificate of Title in accordance with Republic Act no. 26, or if the non-issuance of the Certificate of Title can convincingly be shown to overcome the legal presumption of regularity in the performance of official function, an Order be issued cancelling Decree No. 624072 previously issued on February 17, 1937, Sibalom Cadastre, Province of Antique, and ordering this Authority to issue a new decree in the name of the same owner/adjudicatee/s. And should the instant petition be given due course after due notice of hearing, an Order be issued to the Registrar of Deeds for the Province of Antique; the Land Management Bureau (LMB), Plaza Cervantes, Binondo, Manila, and the Community Environment and Natural Resources Office (CENRO), San Jose, Antique, to submit a categorical certification and report to the Honorable Court and to this Authority, that no title and patent has been issued by their respective offices.

Hence, pursuant to such a report and in order to strengthen its position, the petitioner-appellee secured another Certification[15] dated September 6, 2010 from the Registry of Deeds, San Jose, Antique which categorically states:

This is to certify that since the issuance of Decree No. 624072 on February 17, 1937 for Lot No. 655 of the Cadastral Survey of Sibalom, Province of Antique pursuant to the Decision rendered in Cadastral Case No. 23, LRC Cadastral Record No. 1228, this Office has no record whether an Original Certificate of Title was issued for said lot.

In addition, a Certification[16] dated August 4, 2010 from the Community Environment and Natural Resources Office (CENRO) indicating that no patent was issued for Lot No. 655 was also procured. Finally, a Certificate of Publication[17] dated June 28, 2010 was also adduced by the petitioner-appellee to prove that the Notice of Hearing relative to the cadastral proceeding was published in the Official Gazette.

All told and having gone over the records and the procedures undertaken by the petitioner-appellee, We find the trial court's resolution cancelling Decree No. 624072, and further directing the issuance of a new decree and the corresponding certificate of title for Lot No. 655 of the Sibalom Cadastre proper as it was in accordance with the law and jurisprudence.

WHEREFORE, in view of the foregoing, the Appeal is DENIED. The Resolution dated December 22, 2011 of the Regional Trial Court, Sixth (6th) Judicial Region, Branch 12, San Jose, Antique in RTC Cad. Case No. 10-0206 for Cancellation of Decree No. 624072, Re-issuance of a New Decree and Original Certificate of Title for Lot No. 655 of the Sibalom Cadastre is hereby AFFIRMED.

SO ORDERED.

Delos Santos, Chairperson and Azcarraga-Jacob, JJ., concur.

[1] Rollo, pp. 37-59.

[2] Rollo, pp. 49-58; records, pp. 134-143.

[3] Refer to the RTC Resolution, Commissioner's Report, The Facts, rollo, pp. 50-51, records, pp. 135-136; Petition, records, pp. 2-7.

[4] See Petition, paragraph 3, records, p. 3.

[5] Records, pp. 9-13.

[6] See Affidavit of Self Adjudication of the Estate of Deceased Person, records, p. 17.

[7] Records, p. 15, 16.

[8] Rollo, pp. 49-58; records, pp. 134-143.

[9] Rollo, pp. 58; records, pp. 143.

[10] Records, p. 14.

[11] Records, p. 15.

[12] Records, p. 16.

[13] G.R. No. 127523, March 22, 1999.

[14] Records, pp. 47-48.

[15] Records, p. 53.

[16] Records, p. 57.

[17] Records, p. 54.

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