

WILSON CHAN, REPRESENTED BY UNIMASTERS CONGLOMERATION, INC., PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal from the Decision[1] dated May 17, 2011 of the Regional Trial Court, 8[th] Judicial Region, Branch 8, Magsaysay Boulevard, Tacloban City in Civil Case No. 2010-02-06 for Issuance of Second Owner's Duplicate of Original Certificates of Title Nos. 31300, 31299, 31298, 31281,31280, 31236, 31235, 31234, 31233, 31232, 31231, 31230, 31229, 31228, 31227, 31181, 31180, 31179, 31178, 31177, 31176, 31175, 31174, 31173, 31182 and 31220 which are all registered in the name of Unimasters Conglomeration, Inc.

The Facts

Petitioner-Appellee Wilson Chan is the President of Unimasters Conglomeration, Inc., a corporation existing in accordance with the laws of the Philippines with office address at Leyte Park Resort Hotel, Magsaysay Boulevard, Tacloban City. As president, he was in charge of the safekeeping of various documents including all the certificates of title of the different parcels of land owned by the corporation.

That among the titles in the name of the corporation which he kept in the company safe were: Transfer Certificates of Title Nos. 31300, 31299, 31298, 31281,31280, 31236, 31235, 31234, 31233, 31232, 31231, 31230, 31229, 31228, 31227, 31181, 31180, 31179, 31178, 31177, 31176, 31175, 31174, 31173, 31182 and 31220.[2]

Sometime in August 2009, he discovered that the said titles were no longer inside the company safe.[3] Prior to that, the said titles were borrowed by his younger brother, Willard L. Chan because the latter used it as collateral for the loan at RCBC. He immediately went to the Register of Deeds and asked for a certified true copy of the said titles and it reflected that the mortgage of RCBC was still annotated thereon. So he went to RCBC to inquire about the mortgage and discovered that the loan was already paid. RCBC informed him that the titles were already returned to his brother, Willard L. Chan and the latter's staff, Adolfo De Guia.[4] Wilson Chan declared that the said titles were returned by his younger brother through one of his staff however, the latter died three [3] years prior to the filing of the complaint so he could not ascertain the veracity of the claim of his brother, Willard Chan.[5]

Thereafter, he went to the Register of Deeds for the cancellation of the annotation of the mortgage but the said office informed him that they need the owner's duplicate certificates of title first before they could effect a cancellation of the mortgage.[6]

Hence, on February 8, 2010 he filed the instant petition for the issuance of second owners' duplicate certificates of title before the RTC.[7] Finding the said petition to be sufficient in form and substance, the RTC in its Order[8] dated August 2, 2010 set the case for hearing on September 29, 2010 and further mandated that a copy of said order be posted at the bulletin boards of Bulwagan ng Katarungan, Leyte Provincial Capitol, City Hall of

Tacloban and the Register of Deeds for the City of Tacloban.[9] Thereafter, Sheriff IV Ludy D. Marmita issued a Certificate of Posting[10] stating that he had posted copies of the order on the places mentioned therein.

On September 29, 2010, after petitioner's counsel established the jurisdictional requirements, the RTC issued a general order of default and likewise ordered that the reception of evidence be done through a commissioner and as such designated Atty. Rhyna Peñaranda as commissioner.[11]

On October 11, 2010, the RTC received the Notice of Appearance[12] filed by the Office of the Solicitor General and deputized the City Prosecutor's Office to appear on the former's behalf.[13]

Petitioner presented the lone testimony of Wilson Chan on February 17, 2011.[14] On April 28, 2011, petitioner formally offered Exhibits "A" to "G"[15] which were all duly admitted by the RTC.[16]

Thereafter, on May 17, 2011, the RTC issued its Decision,[17] granting petitioner's prayer and ordered the Register of Deeds of Tacloban to issue a second owner's duplicate certificate, the dispositive portion of the decision, reads:

"WHEREFORE, premises considered, the Register of Deeds of Tacloban City is hereby directed to issue the second owner's duplicate certificate of OCT. (sic) Nos. 31300, 31299, 31298, 31281, 31280, 31236, 31235, 31234, 31233, 31232, 31231, 31230, 31229, 31228, 31227, 31181, 31180, 31179, 31178, 31177, 31176, 31175, 31174, 31173, 31182, 31220 in lieu of the ones that were lost, which are hereby declared null and void.

Furnish a copy of this Decision to the petitioner, his counsel, the Register of Deeds of Tacloban City and the Office of the Solicitor General.

SO ORDERED."[18]

On June 14, 2011[19] the Office of the Solicitor General filed a Notice of Appeal[20] stating that it received the May 17, 2011 Decision of the RTC on May 30, 2011.

This was opposed by the petitioner claiming that the instant case is a special proceeding so that a record of appeal is necessary in order to perfect the appeal and not just a notice of appeal.[21]

The RTC gave due course to the appeal and explained in its Order[22] dated October 18, 2012 that the issuance of second copies of title is merely an adjunct to the original land registration case and under Presidential Decree No. 1529, particularly Section 33 thereof provides that judgment is appealable to the Court of Appeals or the Supreme Court in the same manner as in ordinary actions.

Thus, the Republic of the Philippines through the Office of the Solicitor General, on appeal, raised the lone assignment of error, which reads:

"THE TRIAL COURT GRAVELY ERRED IN GRANTING THE PETITION DESPITE THE FACT THAT THE ALLEGED LOSS OF THE OWNER'S DUPLICATE COPIES OF THE SUBJECT TWENTY-SIX TITLES WAS NOT DULY ESTABLISHED."[23]

Our Ruling

The OSG contends that from the testimony of Wilson Chan, it is very clear that the person who last possessed the subject owner's duplicate copies was Willard Chan. Accordingly, this jibes with the testimony of Wilson Chan that the titles could not be located in his drawer in their office where he usually keeps their files. It was thus crucial for Wilson Chan to prove that the subject titles were no longer in the possession of his brother Willard Chan, otherwise it could not safely be concluded that the duplicate copies sought to be replaced were lost and this petitioner-appellee failed to prove.[24]

On the other hand, Wilson Chan insists that the appeal should be dismissed for failure to perfect an appeal thus attaining finality. Accordingly, the subject petition is actually an incident to a land registration case so that it is continuing proceeding and that multiple appeals is allowed. As such, in order to perfect an appeal from said proceedings a record of appeal is necessary.[25]

This argument of the petitioner-appellee fails to persuade Us.

The pertinent provision governing the issuance of a lost title is Section 109 of P.D. 1529, which reads:

“Section 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.”

As already discussed by the RTC, appeals from the judgment in land registration proceedings may be taken like ordinary civil cases, thus as provided under Section 30 of the same Presidential Decree 1529, which reads:

“Section 30. When judgment becomes final; duty to cause issuance of decree. The judgment rendered in a land registration proceedings becomes final upon the expiration of thirty days to be counted from the date of receipt of notice of the judgment. An appeal may be taken from the judgment of the court as in ordinary civil cases.”

Thus, like the RTC, We find that the appeal is already perfected by the filing of the notice of appeal.

Going now to the merits of the case, the Republic contended:

“From the testimony of Wilson Chan, it is very clear that the person who had last possession of the subject owner's duplicate copies was Willard Chan. This jibes with this own testimony that the titles could not be located in his drawer in their office where he usually keeps their files.

It is thus crucial for appellee to prove that the subject titles are no longer in the possession of Willard Chan, otherwise, it cannot be safely be concluded that the duplicate copies sought to be replaced were lost. Yes, appellee failed in this task, warranting the dismissal of its petition.”[26]

Although We subscribe to the contention of the Republic that Wilson failed to prove loss, the failure could not be attributed only to the non-presentation of Willard Chan but also for failing to substantiate the claim regarding the death of Adolfo de Guia. The testimony of Wilson Chan regarding the loss, reads:

“Q: When did you first discover that the transfer certificates of titles were lost?

A: We found that sometime on (sic) August, 2009.

Q: Were you the one who kept these transfer certificates of title?

A: Yes, ma'am.

Q: Where did you keep these titles?

A: Usually we kept it in our safe however these was (sic) borrowed by my younger brother when he went to borrow money from RCBC, so when I was looking for it and we didn't know where it was, we went to Register of Deeds and we checked the titles and we learned that it was mortgaged to RCBC. So we went back to RCBC they showed us also the records that it has already been fully paid and that the papers were released to my

younger brother and my younger brother told me that he gave it to me, through somebody, in one of my staff, and that one of my staff today is already dead so we could not confirm that staff. He died already about three years ago.

Q: And these 26 certificates of titles (sic) were mortgaged by your brother to RCBC?

A: Yes, that was RCBC records shows (sic).

Q: And these (sic) loan obtained by your brother is the subject of the cancellation of real estate mortgage issued by Rizal Commercial Banking Corporation dated July 7, 2009, is that correct?

A: Yes.

Q: Aside from the loan with the RCBC you are not aware that these transfer certificates were mortgaged to any other banking institution?

A: No more, ma'am.

Pros. Talapiero: That would be all.

Commissioners:

Few questions.

Q: You mentioned earlier that your brother asked from you these 26 transfer certificates of titles (sic) which is the subject of the instant petition. What is the name of your brother?

A: Willard L. Chan.

Q: You also testified earlier that the loan you secured from the RCBC wherein he mortgaged the 26 titles had already been canceled and you even showed to us or presented to court a photocopy of the canceling of the real estate mortgage executed by RCBC and upon perusal of the same it appears to have been executed on July 7, 2009. Upon your knowledge, the canceling of the real estate mortgage, what did you do?

A: Upon knowledge of the cancellation I got a copy and gave it to our lawyer.

Q: Did you also inquire where the titles are?

A: Yes, we went to RCBC to see the records as to who withdraw those original title and it reflected the name of my brother and the staff of my brother whom I said who died already but my brother's signature was there.

Q: What is the name of this staff?

A: Aldolfo de Guia.

Q: And you also testified earlier that according to your brother Willard Chan he entrusted to you the transfer certificates of titles (sic) and he returned to you that transfer certificates of titles (sic)?

A: Yes.

Q: And according to you, you somehow forgot that they were returned to you, is that correct?

A: Yes.

Q: But normally what do you usually do when you have important documents with you?

A: Normally the important documents are placed in the safe of the company.

Q: Did you try to look for it (inside the) safe?

A: Yes.

Q: What safe are you referring to?

A: The safe in the office.

Q: Where is your office located?

A: Right now in the Leyte Park Hotel.

Q: Sometime in 2009 it was there?

A: Yes.

Q: And when you open (sic) the safe were you able to locate the transfer certificate of titles (sic)?

A: There were many titles and we sorted it out and we discovered that all the RCBC titles were not there.

Q: All the titles that had been mortgaged the RCBC were not there?

A: Yes.

Q: But the other titles of the properties in your drawer were there?

A: Yes.

Q: Going back to the cancellation of real estate mortgage dated July 7, 2009 and you likewise also executed an affidavit of loss dated September 23, 2009, in fact the affidavit of loss was annotated at the dorsal portion of this 26 transfer certificates of titles (sic), however, this representation is wondering why you did not also cause the annotation of the cancellation of the real estate mortgage which was executed by RCBC sometime in July 2009?

A: We did try to approach the ROD to have the cancellation of the RCBC annotated but we were informed by the ROD that we can only cancel if we will present the previous original owner's copy which we do not have. So for that reason they said that if the court will grant us the issuance of second owner's copy then it will be reflected there.

Q: Do you know where your brother Mr. Willard Chan is right now?

A: Right now he is in the hospital in Manila.

Q: Does he have any knowledge regarding this petition?

A: Yes.”[27]

Based from the foregoing, Wilson Chan's testimony is purely hearsay because he only heard it from his brother. He should have presented his brother Willard Chan. Yet, even if Willard was presented, the petition would still fail because from Wilson Chan's narration, it was actually Adolfo De Guia who was last in possession of the lost titles. Unfortunately, Adolfo De Guia could no longer be presented because he died three [3] years prior to the filing of the instant petition. Wilson Chan in support of his claim should have presented Adolfo De Guia's death certificate or any other proof of his death.

In addition, Wilson Chan's testimony on its own is insufficient to establish the loss of the titles, especially since the same lacks particularity. There was no testimony of the circumstances leading to the loss of the said titles nor was there testimony whether he was the only person who had access to the company's safe, likewise there was no testimony that after he received the titles, he personally placed them inside the company safe among others, leaving lots of loose ends and queries as to the whereabouts of the said titles.

Jurisprudence dictates that if a certificate of title has not been lost, but is in fact in the possession of another person, then the reconstituted title is void and the court that rendered the decision had no jurisdiction.[28]

WHEREFORE, in view of the foregoing, We grant this appeal. The Decision dated May 17, 2011 of the Regional Trial Court, 8th Judicial Region, Branch 8, Magsaysay Boulevard, Tacloban City in Civil Case No. 2010-02-06 for Issuance of Second Owner's Duplicate of Original Certificate of Titles Nos. 31300, 31299, 31298, 31281, 31280, 31236, 31235, 31234, 31233, 31232, 31231, 31230, 31229, 31228, 31227, 31181, 31180, 31179, 31178, 31177, 31176, 31175, 31174, 31173, 31182 and 31220 is hereby REVERSED and SET ASIDE. The petition in Civil Case No. 2010-02-06 is hereby DISMISSED.

SO ORDERED.

Hernando, J., Chairperson, and Azcarraga-Jacob, JJ., concur.

[1] Records, pp. 139-148, penned by the Honorable Judge Salvador Y. Apurillo

[2] Records, pp. 2-8

[3] TSN, February 17, 2011, p. 17

[4] TSN, February 17, 2011, p. 19

[5] TSN, February 17, 2011, p. 18

[6] TSN, February 17, 2011, p. 21

[7] Records, pp. 1-10

[8] Records, pp. 81-91

[9] Records, p. 91

[10] Records, p. 91

[11] Records, p. 93

[12] Records, p. 95

[13] Records, p. 96

[14] Records, pp. 109-130

[15] Records, pp. 99-101

“A”- Petition itself consisting of 19 pages;

“B”- Photocopies of the certificates of title;

“C”- Affidavit of Loss executed by Engr. Wilson Chan dated September 7, 2009;

“D”- Secretary's Certificate authorizing Engr. Wilson Chan to institute this petition;

“E”- Order dated August 2, 2010 issued by the RTC, finding the petition to be sufficient in form and substance, etc.;

“F”- Certificate of Posting; and

“G”- Cancellation of Mortgage under Doc. No. 39, Page 9, Book XXI, Series of 2009 executed by RCBC, Tacloban.

[16] Records, p. 98

[17] Records, pp. 139-148

[18] Records, p. 148

[19] Records, p. 153

[20] Records, p. 149

[21] Records, pp. 154-161

[22] Records, p. 117-179

[23] Rollo, pp. 17-18

[24] Rollo, p. 19

[25] Rollo, p. 37

[26] Rollo, p. 19

[27] TSN, February 17, 2011, pp. 16-21

[28] Strait Times, Inc. v. CA, et al., G.R. No. 126673, August 28, 1998

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