

IN RE: PETITION FOR CANCELLATION OF DECREE NO. 161313 ISSUED FOR LOT NO. 4530, ALBAY CADASTRE AND RE-ISSUANCE OF A NEW DECREE AND THE CORRESPONDING ORIGINAL CERTIFICATE OF TITLE,

Ponente: DE GUIA-SALVADOR, R., J.

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DE GUIA-SALVADOR, R., J.:

Filed pursuant to Rule 41 of the 1997 Rules of Civil Procedure, the instant appeal seeks the reversal and setting aside of the Decision[1] dated April 10, 2013 of the Regional Trial Court of Legazpi City, Branch 10 (court a quo) in LRC No. N-706, dismissing for lack of merit the Petition for Cancellation of Decree No. 161313 filed by petitioner-appellant Spouses Maria and Roger Onandia.[2]

The Facts

Petitioners-appellants Spouses Roger and Maria Onandia (Spouses Onandia) are the alleged owners of a parcel of land identified as Lot 4530 (subject property) located at Barangay Kilicao, Municipality of Daraga, Albay. The Spouses Onandia purchased the subject property from the Spouses Higina and Felix Padilla (Spouses Padilla) as evidenced by the Deed of Absolute Sale dated July 18, 1998. The Spouses Padilla, in turn, acquired the subject property at a public auction where they were the only bidders, and for which a Sheriff's Certificate of Sale dated September 11, 1981 was issued. Apparently, the previous owners of the subject property were the Spouses Gregorio and Becia Lisay. Gregorio allegedly acquired the property from his father, Pacifico Lisay, who in turn inherited it from his father Pablo Lisay.[3]

On September 27, 2007, the Spouses Onandia filed a Petition for Cancellation of Decree No. 161313,[4] praying that said decree issued for Lot 4530 of the Albay Cadastre be declared lost for all intents and purposes and without force and effect, and another Cadastral Decree be issued for the same lot, and thereafter, the corresponding Original Certificate of Title in the name of Maria M. Onandia and Roger M. Onandia likewise be issued.

The Spouses Onandia admitted that per certification of the Land Registration Authority (LRA) dated September 4, 2007, Lot 4530 of the Albay Cadastre was issued Decree No. 161313 on September 12, 1924 pursuant to the decision rendered in Cad. Case No. 3, LRC Cad. Record No. 334. However, they also alleged that per certification from the LRA dated September 4, 2007, copy of said Decree No. 161313 is not among the salvaged decrees on its office files, and that such copy is presumed to have been lost or destroyed during the last World War. They added that per certification dated September 6, 2007 of the Office of the Register of Deeds of the Province of Albay, said office has no available record of Lot 4530 in its registry. Claiming that there is no evidence that a copy of the decree and the corresponding title thereto were prepared, issued, sent to and received by the Register of Deeds of Albay, they seek that Decree No. 161313 previously issued for Lot 4530 of the Albay Cadastre be cancelled and another decree and the corresponding original certificate of title covering Lot 4530 be issued under their names.

To show compliance with the jurisdictional requirements of the petition, Spouses Onandia marked and offered in

evidence the following documents: "(i) Certificate of Posting dated March 27, 2008 [Exhibit 'C']; (ii) Publisher's Affidavit dated December 20, 2007 [Exhibit 'D']; (iii) November 26 - December 2, 2007 issue of the Morning View News Report [Exhibit 'E']; (iv) December 3 - 9, 2007 issues of the Morning View News Report [Exhibit 'F']; (v) Official Gazette Volume 104, No. 2, January 14, 2008 issue [Exhibit 'H']; (vi) Official Gazette Volume 104, No. 3, January 21, 2008 issue; (vii) Certificate of Publication issued by the National Printing Office [Exhibit 'I-3']." [5] Thereafter, trial of the case ensued.

Meanwhile, having received copy of the petition, the LRA reported to the court a quo that:

"x x x

3. x x x, Lot 4530, Albay Cadastre, was the subject of the Petition for Reconstitution of title under R.A. 26, sometimes in January 24, 2001, but said Petition had been ordered dismissed per Order of the Court dated January 27, 2002, because, no credible evidence was presented and offered to show that the subject lot, was issued Original Certificate of Title No. 2528, pursuant to Decree No. 161313. x x x.

4. x x x the Petitioner, Maria Onandia, in the above-entitled case, filed an application for Original Registration of title, for the same lot, Lot 4530. Albay Cadastre, in LR Case No. 702, LRA Record No. N-77038, wherein this Authority, have been (sic) submitted to the Honorable Court a Report dated January 16, 2006 for final disposition of the case, but to date, no final resolution or order to the said Report has as yet been received by this Authority. x x x.

x x x." [6]

The RTC Decision

On April 10, 2013, the court a quo rendered the appealed decision, [7] denying the Spouses Onandia's prayer for the cancellation of Decree No. 161313, on the following findings and conclusion:

xxx xxx xxx

"There was no sufficient testimony or documentary proof adduced to show how the spouses Becia and Gregorio Lisay obtained the property. True, there was a deed of extra-judicial settlement of estate executed by the supposed heirs of Basilisa Lustro [Exhibit 'A-7'], but it does not establish the missing link since it was clearly stated in the said deed that Lot No. 4530 was supposed to go to Pablo Lisay. The court should not be left to guess or imagine the relationship between Pablo and Gregorio who both happened to have the same surname. In the same manner, this particular deed could not establish the name of the person to whom Decree No. 161313 was originally adjudicated.

Neither has it been satisfactorily shown to the court who the original awardee of Decree No. 161313 was. A decree can be cancelled and re-issued; but it is always re-issued in the name of the original awardee. xxx

xxx xxx xxx

There is no evidence presented to establish that Decree No. 161313 has indeed been transmitted to the Registrar of Deeds for the Province of Albay. The said office does not have a copy of the decree. The fact that it was actually issued and sent could no longer be proven as there appears to be no copy of the decree itself on file with the LRA.

No registration book was presented by petitioners. Neither did the representative of the Registrar of Deeds for Albay exhibit any registration book. All that was presented in court was a simple logbook [Exhibit 'K-2'] listing some lot numbers, amongst them Lot No. 4530 and the name 'Pablo Lisay', sans any mention of Decree No. 161313. xxx" [8] (Emphasis supplied)

xxx xxx xxx

The Issue

Aggrieved, the Spouses Onandia are now before Us via the instant appeal,[9] seeking the reversal of the appealed Decision on a lone error, to wit:

"THE LOWER COURT ERRED IN DISMISSING THE PETITION FOR ALLEGED LACK OF MERIT." [10]

The Spouses Onandia claim that Decree No. 161313, albeit valid and intact, must nonetheless be cancelled and a new one issued because the Decree and its corresponding Certificate of Title must be an exact replica of each other- a requisite that may not be complied with in the instant case as a new OCT will bear the signature of a different administrator, not that of the signatory appearing in Decree No. 161313.[11] Moreover, the Petition for Cancellation is the proper remedy rather than a petition for reconstitution, considering that the rules on reconstitution merely apply to lost or destroyed titles, not decrees.[12] Lastly, they assert that the Decree has not yet attained finality, as the same has not been transcribed in the Registration Book of the Register of Deeds. Accordingly, the Decree is still subject to cancellation in the same land registration case.[13]

On the other hand, oppositor-appellee Republic maintains that pursuant to Section 32 of PD 1529, a review of a decree previously issued may only be allowed upon allegation and proof of actual fraud. In the instant case, there is no allegation that fraud existed in securing the decree of registration.[14] Moreover, the evidence presented by the Spouses Onandia fail to specifically prove the person to whom Decree No. 161313 was issued,[15] hence, their prayer for the cancellation of the Decree and the issuance of a new one in their name has no legal basis.[16]

The Court's Ruling

Upon a meticulous scrutiny of the Records, We find the instant appeal bereft of merit.

It is well-settled that a decree of registration once issued becomes final and incontrovertible one year after its issuance.[17] Consequently, by the issuance of a decree, the land is bound and title thereto is quieted.[18] Accordingly, the decree becomes conclusive upon and against all persons, including the government and its branches.[19] A contrary rule will lead to the pernicious situation of endless litigations, where every obstinate litigant could, by repeated appeals or actions compel a court to listen to criticisms on its opinions, thereby allowing the land to be brought under a second action for registration.[20] In fact, the rule is so stringent such that the decree of registration shall not be opened and shall remain in full force and effect forever, subject only to such rights which may be considered under the law, notwithstanding the subsequent purchase and transfer of the property.[21]

Section 32 of the Property Registration Decree (PD 1529) proscribes a revision and re-opening of the decree of registration, except in cases of actual fraud, to wit:

"Section 32. Review of decree of registration; Innocent purchaser for value. The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, <bnor by any proceeding in any court for reversing judgments, subject, however, to the right of any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper Court of First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration, but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.

Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible. Any person aggrieved by such decree of registration in any case may pursue his

remedy by action for damages against the applicant or any other persons responsible for the fraud." [22]
(Emphasis supplied)

Verily, a Decree of Registration becomes incontrovertible and unassailable one year from and after the date of its entry and may only be reviewed upon allegation and proof of actual fraud. In the instant case, Decree No. 161313 was issued as early as September 12, 1924. Evidently, the one year period for assailing its validity has lapsed several decades back. More importantly, the Spouses Onandia failed to allege, much less prove, that actual fraud attended the issuance of Decree No. 161313 to warrant a re-opening or revision thereof.

In seeking the cancellation of Decree No. 161313, the Spouses Onandia contend that the Original Certificate of Title must be an exact replica of the Decree of Registration. In this regard, Decree No. 161313 must be cancelled, and in its stead a new decree issued under their name along with a corresponding Title. Otherwise, to allow Decree No. 161313 to persist alongside a new Certificate of Title will lead to a scenario where the former will not be a replica of the latter, as the former will bear the signature of the previous LRA Administrator, while the latter will bear the signature of the incumbent LRA Administrator. Ostensibly, therefore, the cancellation of the old decree and the issuance of a new one is necessary. [23]

We are unswayed by the contentions of the Spouses Onandia.

The rules protecting the finality and incontrovertibility of the decree of registration are so stringent such that even an amendment therein may only be had under certain instances. Parenthetically, Section 108 of PD 1529 [24] provides that the decree of registration and the corresponding certificate of registration may only be amended after one year for the purpose of noting down the extinguishment of any right, or the creation of new real rights not appearing in the certificate, or the correction of certain errors. [25] In this regard, jurisprudence holds that the decree may not be amended if the purpose is to include the names of new owners, even if the amendment is made with the consent of the original owner. [26] Plainly, "the trial court has no jurisdiction to amend the decree of registration for the purpose of including new owners after the lapse of one year." [27] In light of the aforementioned stringent land registration laws, the contentions of the Spouses Onandia deserve scant consideration.

The Spouses Onandia further assert that the proper procedure to solve their predicament is to file a petition for cancellation of the old decree, the re-issuance of such decree and the issuance of a corresponding Original Certificate of Title, as enunciated in *Cacho vs. Court of Appeals, et al.* [28]

We disagree. The Spouses Onandia cannot hark on the doctrine enunciated in *Cacho vs. Court of Appeals, et al.* [29] as its factual milieu is not on all fours with the instant case. In *Cacho* the fact of ownership was sufficiently proven with the Supreme Court's affirmance of the identity and existence of the claimant and his legal interest over the subject properties, which crucial element is palpably absent in the case at bar.

It is undisputed that Decree No. 161313 was issued by the Land Registration Authority, pursuant to the decision rendered on September 12, 1924 in Cad. Case No. 3, LRC Cad. Record No. 334, [30] under Act No. 496, the precursor of PD 1529. Simply, stated the procedure outlined under Act No. 496, is that the chief of the General Land Registration Office (currently the LRA Administrator) prepares the decree of registration and transmits it to the register of deeds, who in turn transcribes the decree in its "registration book". The entry made by the register of deeds in the registration book constitutes the original certificate of title, and shall be signed by him and sealed with the seal of the court. Hence, the entry of the decree in the registration book ipso facto converts the decree into an original certificate of title. [31] In the instant case, no proof was adduced on whether or not Decree No. 161313 was transmitted to the Register of Deeds for the Province of Albay. The latter office does not have a copy of the decree. [32] Neither were the Spouses Onandia able to present the registration book. What they offered in

evidence instead is a simple logbook containing a list of lot numbers, one of which was Lot No. 4530, adjacent to the name "Pablo Lisay", but without any mention of Decree No. 161313. As correctly ruled by the court a quo, the logbook presented in evidence cannot qualify as the registration book adverted to under Act No. 496, as it does not bear the signature of the register of deeds, nor the seal of the court.[33]

Furthermore, the information elicited from the logbook is insufficient. All that it shows is that Lot No. 4530 was listed beside the name Pablo Lisay. Remarkably, however, the Spouses Onandia failed to present proof of how the lot was transferred by Pablo Lisay to the persons from whom the Spouses Onandia acquired the subject property. The latter asserted that they purchased the property from the Spouses Padilla on July 18, 1988,[34] who in turn acquired it from Gregorio Lisay on September 11, 1981.[35] However, the chain of ownership ends there. No proof or evidence was presented to show from whom Gregorio Lisay acquired the subject property. Even more problematic is the fact that the Certification of the LRA attesting to the existence of Decree No. 161313, does not specify or name the person to whom it was issued. Plainly, there is a complete dearth of information as to who is the awardee of Decree No. 161313. Besides, even assuming *arguendo* that Pablo Lisay is the original awardee of Decree No. 161313, there is no evidence establishing the relationship between Pablo and Gregorio Lisay. Absent any competent proof on the matter, We should not be left to speculate on the relationship between Pablo and Gregorio. Although they bear the same surname, We cannot just conclude for that reason alone that a transfer was made by the former to the latter. Information on whether it was indeed acquired by Gregorio from Pablo and the manner of such acquisition should have been provided.

Apparently, the Spouses Onandia's best evidence to prove possession and ownership over the subject property were tax declarations issued in the name of Maria Onandia. Unfortunately, these tax declarations together with their unsubstantiated general statements are not enough to prove their rightful claim. Well settled is the rule that tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when not supported by other evidence. The fact that the disputed property may have been declared for taxation purposes in the names of the applicants for registration or of their predecessors-in-interest does not necessarily prove ownership, as they are merely *indicia* of a claim of ownership.[36]

Nothing is more settled in law than the rule that "in land registration cases, the applicant has the burden to show that he or she is the real and absolute owner in fee simple of the land sought to be registered." [37] In the same vein, "one who seeks registration of title must prove his or her claim with well-nigh incontrovertible evidence." [38] In this case, the Spouses Onandia miserably failed to show that they are the real and absolute owners of the subject property.

Guided by the foregoing rule, the Spouses Onandia's Petition for Cancellation of Decree No. 161313 must be denied. The laws protecting the sanctity and indefeasibility of the decrees of registration must be upheld, and the cancellation or amendment of the decree of registration may only be allowed under the most exigent circumstances provided by the law, which do not obtain in the instant case. Moreover, the Spouses Onandia failed to present sufficient proof of their ownership over the subject property. At best, the issue on the ownership of the subject property remains hazy, given the dearth of evidence presented by the Spouses Onandia. The record is bereft of evidence establishing the identity of the awardee of Decree No. 161313, or proving Pablo's Lisay's ownership and/or his relationship with Gregorio, or showing the manner of Gregorio's acquisition of the property. We cannot make speculations or surmises in matters as vital as land registration. Indeed, although a decree may be cancelled and re-issued, it should always be re-issued in the name of the owner, who in the instant case was not proven to be the Spouses Onandia.

WHEREFORE, premises considered, the instant appeal is hereby DENIED for lack of merit. Accordingly, the Decision of the court a quo in LRC No. N-706 dated April 10, 2013 is AFFIRMED IN TOTO.

SO ORDERED.

Rosario, and Dimagiba, JJ., concur.

[1] Records, pp. 224-229.

[2] Id., p. 229.

[3] Rollo, pp. 24-25.

[4] Id., pp. 1-3

[5] Id., p. 224

[6] Records, p. 37

[7] Rollo, pp. 224-229.

[8] Id., pp. 226-227.

[9] Id., pp. 230-231.

[10] Supra note 3, p. 22.

[11] Id., p. 28.

[12] Id.

[13] Id.

[14] Id., pp. 48-50.

[15] Id., p. 50.

[16] Id., p. 54.

[17] Registration of Land Titles and Deeds, Antonio H. Noblejas and Edilberto H. Noblejas, 2007, p. 196, citing Pasalbon vs. Balmoja, O.G. Volume 49, No. 4, p. 1487.

[18] Id., citing Great Western Telegraph Company vs. Brunham, 162 U.S. 339; Reyes, et al. vs. Borbon, et al., 50 Phil. 791 [1927].

[19] Id.

[20] Id., p. 199.

[21] Id.

[22] PD 1529 Property Registration Decree, Section 32.

[23] Supra note 3, p. 28.

[24] PD 1529 Property Registration Decree, Section 108. Amendment and alteration of certificates. No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same be Register of Deeds, except by order of the proper Court of First Instance. A registered owner of other person having an interest in registered property, or, in proper cases, the Register of Deeds with the approval of the Commissioner of Land Registration, may apply by petition to the court

upon the ground that the registered interests of any description, whether vested, contingent, expectant or inchoate appearing on the certificate, have terminated and ceased; or that new interest not appearing upon the certificate have arisen or been created; or that an omission or error was made in entering a certificate or any memorandum thereon, or, on any duplicate certificate; or that the same or any person on the certificate has been changed; or that the registered owner has married, or, if registered as married, that the marriage has been terminated and no right or interests of heirs or creditors will thereby be affected; or that a corporation which owned registered land and has been dissolved has not convened the same within three years after its dissolution; or upon any other reasonable ground; and the court may hear and determine the petition after notice to all parties in interest, and may order the entry or cancellation of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security or bond if necessary, as it may consider proper; Provided, however, That this section shall not be construed to give the court authority to reopen the judgment or decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs and assigns, without his or their written consent. Where the owner's duplicate certificate is not presented, a similar petition may be filed as provided in the preceding section.

[25] Registration of Land Titles and Deeds, Noblejas, Antonio H. and Edilberto H., 1992, p. 151, citing *Garcia vs. Reyes*, 51 Phil. 409, [1928].

[26] *Supra* note 17, p. 201, citing *Garcia vs. Reyes*, 51 Phil. 409 [1928].

[27] *Id.*

[28] G.R. No. 123361, March 3, 1997.

[29] *Id.*

[30] *Supra* note 1, p. 2.

[31] Act No. 496, Land Registration Act.

[32] *Supra* note 1, p. 225.

[33] *Id.*, p. 193.

[34] *Id.*, p. 2.

[35] *Id.*

[36] *Republic of the Philippines vs. Manimtim, et al.*, G.R. No. 169599, March 16, 2011.

[37] *Wee vs. Republic of the Philippines*, G.R. No. 17738 4, December 8, 2009, citing *Diaz-Enriquez v. Republic of the Philippines*, 480 Phil. 787, 800 (2004).

[38] *Id.*, citing *Turquesa v. Valera*, 379 Phil. 618, 631 (2000).

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