

HEIRS OF RAYMUNDO AND CARLOS AUGUSTO NAMELY: MIGUEL AUGUSTO, BALBINA AUGUSTO, ET. AL., PETITIONERS-APPELLEES, VS. BERNARDITA Y. PEPITO, SURVIVED BY HER LEGAL REPRESENTATIVES: BE...

Ponente: LOPEZ, J.

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LOPEZ, J.:**The Case**

Before this Court is an appeal filed under Rule 41 of the 1997 Rules of Civil Procedure which seeks to reverse and set aside the Order[1] of the Regional Trial Court, Branch 27 of Lapu-lapu City, dated 23 April 2010, denying Oppositor-Appellant's Motion for Reconsideration and Motion to Order the Register of Deeds of Lapu-lapu City to Hold in Abeyance the Issuance of Owner's Duplicate of Title or Motion to Re-issue Owner's Duplicate of Title to the Oppositor[2] for utter lack of merit.

FACTUAL ANTECEDENTS

Petitioners-Appellees are the heirs of the late Raymundo Augusto and Carlos Augusto, the registered owners of Lot No. 4278, which lot is the subject matter of this case. The said lot is situated in Mactan, Lapu-lapu City, containing an area of 4,247 square meters and covered by OCT No. RO-3173[3].

On the other hand, Oppositor-Appellant Bernardita Pepito claims to be the owner of the subject lot, which she allegedly acquired from Spouses Hadji Sheriff Jamal and Alejandra Igcasenza, who, in turn, allegedly acquired the same from the heirs of the late Raymundo Augusto and Carlos Augusto.

On 11 June 2009, Petitioners-Appellees adjudicated unto themselves Lot No. 4278 as evidenced by an Extrajudicial Declaration of Heirs and Settlement of the Estate of the late Raymundo Augusto and Carlos Augusto[4]. They stipulated that one-half (1/2) of the undivided portion of the property will go to the heirs of Raymundo Augusto and the other one-half (1/2) to the heirs of Carlos Augusto. They also appointed Apolinario Igoy as their attorney-in-fact in the same document.

On 22 June 2009, Petitioners-Appellees, through their attorney-in-fact, filed with the trial court a Petition for the Re-issuance of Lost Owner's Duplicate Copy of OCT No. RO-3173 covering Lot No. 4278[5]. They alleged that OCT No. RO-3173 had been in the possession of their predecessors-in-interest, Raymundo and Carlos Augusto, but after their death, the said title could no longer be found despite diligent efforts to locate the same. They added that the said title has not been delivered to any third person since Lot No. 4278 was never subject of any sale, mortgage or any other mode of encumbrance or alienation. Moreover, their attorney-in-fact Apolinario Igoy promptly executed an Affidavit of Loss[6] with the Registry of Deeds of Lapu-lapu City.

Finding the petition sufficient in form and substance, the trial court issued an Order[7] setting the case for initial hearing and directed the branch clerk of court to notify all concerned parties and to cause the posting of the notice of hearing in three (3) conspicuous public places in Lapu-lapu City. After complying with the said order and other jurisdictional requirements, Petitioners-Appellees through their attorney-in-fact were then allowed to adduce

evidence to substantiate their petition.

Thereafter, trial on the merits ensued. Petitioners-Appellees presented Apolinario Igoy, their attorney-in-fact, as their only witness. He testified that he is one of the heirs of Raymundo and Carlos Augusto, the registered owners of the subject lot. He reiterated the averments contained in their Petition for Re-issuance of Lost Owner's Duplicate Copy of OCT No. RO-3173[8] and prayed that a new one be issued in its stead.

Likewise, Atty. Marlo Cugas, Register of Deeds of Lapu-lapu City, was subpoenaed by the trial court. During the trial, he brought with him the original copy of OCT No. RO-3173 and he certified that the same is a true and faithful reproduction of the original copy filed with the Registry of Deeds of Lapu-lapu City.

Throughout the trial of the case, no opposition to the petition was filed by any party whether oral or written. Thus, the trial court rendered Judgment[9] in favor of Petitioners-Appellees on 19 October 2009 after finding their petition to be proper and in order.

Sometime thereafter, or on 17 November 2009, Oppositor-Appellant filed with the trial court an Entry of Appearance with Motion for Reconsideration[10]. She alleged that she is the absolute owner of Lot No. 4278 which she allegedly acquired from Spouses Hadji Sheriff Jamal and Alejandra Igcasenza. The latter, on the other hand, allegedly acquired the said property from the heirs of Raymundo and Carlos Augusto. Both sales were evidenced by separate Deeds of Absolute Sale.

She added that at the time she acquired the said property, it was not yet covered by a certificate of title and that she has been consistently paying the real property taxes thereon. Moreover, she alleged that Petitioners-Appellees have filed two cases in the past for declaration of nullity of deed of sale against her but both cases were dismissed.

Petitioners-Appellees filed their Opposition[11] to Oppositor-Appellant's motion for reconsideration on 19 November 2009. They asserted that the latter's motion was filed way beyond the period to appeal, thus, the trial court's decision had already attained finality. They added that the deed of sale relied upon by Oppositor-Appellant was not annotated in the original certificate of title. Moreover, the dismissal of the two cases filed by them do not have the effect of validating the sale of the lot to Oppositor-Appellant since the ground for dismissal was only lack of jurisdiction and it did not disposed of the cases on their merits.

The trial court in an Order[12] dated 23 April 2010, denied Oppositor-Appellant's motion for reconsideration. It ruled that the latter's action was not proper since the only issues left for the trial court's determination in the present petition were whether or not Petitioners-Appellees are the real party in interest and whether or not they have sufficiently proven the fact of loss of OCT No. RO-3173. It added that Oppositor-Appellant's other arguments delve into matters extraneous to the object of the present petition, hence, do not merit the trial court's consideration.

Aggrieved by the trial court's Order, Oppositor-Appellant filed her Notice of Appeal[13] on 21 May 2010. Petitioners-Appellees filed their opposition thereto on 31 May 2010. Pending resolution of Oppositor-Appellant's notice of appeal, the trial court issued an Order[14], dated 22 June 2010, directing the former to present to it OCT No. RO-3173 which she claimed was not lost but is in her possession all this time.[15] However, Oppositor-Appellant failed to comply with the trial court's directive. On 17 March 2011, the trial court issued an Order[16] giving due course to the notice of appeal and the records of the case were ordered elevated to this Court.

On 11 February 2013, Oppositor-Appellant filed her Brief[17] raising several assignments of error which can be summarized into one pivotal issue, to wit:

WHETHER OR NOT THE TRIAL COURT ERRED IN DENYING OPPOSITOR-APPELLANT'S MOTION FOR RECONSIDERATION AND MOTION TO ORDER THE REGISTER OF DEEDS OF LAPU-LAPU CITY TO HOLD IN ABEYANCE THE RE-ISSUANCE OF OWNER'S DUPLICATE TITLE OR MOTION TO RE-ISSUE OWNER'S DUPLICATE TITLE TO THE OPPOSITOR.

RULING

We DENY the present appeal for lack of merit.

Pending resolution of her appeal filed with this Court, Oppositor-Appellant died on 26 January 2013. She was properly substituted by her surviving heirs namely: Benjamin C. Pepito, Bernadette P. Delos Reyes, and Beverly P. Pato.

Oppositor-Appellant reiterated in her brief that she is the absolute owner of the subject property having acquired the same from Spouses Jamal who, in turn, acquired the same from the heirs of Raymundo and Carlos Augusto.[18] These sales were evidenced by separate deeds of absolute sale.[19] She added that after the acquisition, she caused the transfer of the tax declaration in her name and since then, she has been paying the real property taxes thereon.[20]

Moreover, she averred that the dismissal of the two cases filed by Petitioners-Appellees against her for declaration of nullity of deed of sale constitutes *res adjudicata*. [21] Finally, Petitioners-Appellees are guilty of laches according to Oppositor-Appellant because from the time she acquired the subject property in 1972, they waited for more than 36 years before instituting the present petition in 2009.[22]

On the other hand, Petitioners-Appellees argued in their Brief that Oppositor-Appellant's appeal is dismissible on the following grounds: firstly, her motion for reconsideration with the trial court was filed beyond the fifteen (15) day period to appeal; [23] secondly, the issues advanced by Oppositor-Appellant are extraneous or irrelevant to the present petition for re-issuance of lost owner's duplicate copy of OCT No. RO-3173; [24] and lastly, they reiterated that the dismissal of the two cases filed by them against Oppositor-Appellant does not have the effect of validating the sale of the subject property to the latter as the cases were not disposed of on their merits but were dismissed on the ground of lack of jurisdiction. [25]

Moreover, they added that if Oppositor-Appellant desires to enforce the aforesaid deeds of absolute sale, she can always file a separate action in court but not in the present petition. [26] Finally, even assuming *arguendo* that some of the Petitioners-Appellees signed the deed of absolute sale in favor of Oppositor-Appellant, nevertheless, the same is null and void since it is necessary that all of the heirs must sign the deed considering that the subject property is commonly owned by Petitioners-Appellees. [27]

Oppositor-Appellant's contentions do not persuade Us. The trial court correctly denied her motion for being procedurally infirmed.

Motion for Reconsideration,
Filed out of time

Under Section 1, Rule 37 of the Rules of Court, an aggrieved party may move for reconsideration of a judgment or final order within the period for taking an appeal. Likewise, Rule 41 of the Rules of Court, which governs appeals from the Regional Trial Courts, mandates that an ordinary appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. [28] Thus, a motion for reconsideration must be filed within fifteen (15) days from notice of the judgment or final order appealed from.

In the case at bar, the trial court rendered judgment on Petitioners-Appellees' petition on 19 October 2009 after it

was satisfied that the latter's evidence has sufficiently proven the fact of loss of OCT No. RO-3173. Likewise, there was no opposition filed by any party which had also convinced the trial court that granting Petitioners-Appellees' petition is proper and warranted under the circumstances.

However, after almost one (1) month from the trial court's judgment, Oppositor-Appellant came forward and filed a Motion for Reconsideration and Motion to Order the Register of Deeds of Lapu-lapu City to hold in abeyance the issuance of Owner's Duplicate of Title or Motion to Re-issue Owner's Duplicate of Title to the Oppositor[29] on 17 November 2009. Evidently, her motion was filed way beyond the reglementary period for filing a motion for reconsideration in accordance with the above-mentioned provisions. The decision of the trial court having become final, it may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land.[30] Thus, the trial court correctly denied Oppositor-Appellant's motion.

Motion for Reconsideration; Pro Forma

Even granting for the sake of argument that Oppositor-Appellant's motion for reconsideration was filed within the period for taking an appeal, still it is dismissible for being pro forma. Under the last paragraph of Section 1, Rule 37 of the Rules of Court, a motion for reconsideration may be filed upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law. Likewise, the same rule states that a motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.[31]

In the present case, Oppositor-Appellant's motion for reconsideration was not based on any of the grounds provided for by the rules. Moreover, she failed to point out specifically the findings of the trial court which are not supported by evidence or which are contrary to law. She only stated the circumstances surrounding her alleged ownership over the subject property starting from the sale of the subject property by the heirs of Raymundo and Carlos Augusto to the Spouses Jamal followed by Oppositor-Appellant's acquisition of the said property and her alleged exercise of all the attributes of ownership from that time up to the present. However, We do not see how these circumstances could qualify as grounds for filing a motion for reconsideration.

Well-settled is the rule that motions for reconsideration which do not specify the findings or conclusions in the decision that were not supported by the evidence or are contrary to law are pro forma motions.[32] As such, they are nothing but worthless pieces of paper which the clerk has no right to receive and the court has no authority to act upon.[33] Moreover, it does not toll the running of the reglementary period of appeal.[34]

Furthermore, Oppositor-Appellant chose the incorrect remedy of appealing the denial of her motion for reconsideration. It is evident from her Appellant's Brief that she is appealing the denial of her motion for reconsideration and not the decision of the trial court itself.[35] The Rules of Court mandate that an order denying a motion for reconsideration is not appealable, the remedy being an appeal from the judgment or final order.[36] In the Heirs of Spouses Teofilo M. Reterta and Elias Reterta vs. Spouses Lorenzo Mores and Virginia Lopez[37], the Supreme Court further expounded:

The restriction against an appeal of a denial of a motion for reconsideration independently of a judgment or final order is logical and reasonable. A motion for reconsideration is not putting forward a new issue, or presenting new evidence, or changing the theory of the case, but is only seeking a reconsideration of the judgment or final order based on the same issues, contentions, and evidence either because: (a) the damages awarded are excessive; or (b) the evidence is insufficient to justify the decision or final order; or (c) the

decision or final order is contrary to law.

By denying a motion for reconsideration, or by granting it only partially, therefore, a trial court finds no reason either to reverse or to modify its judgment or final order, and leaves the judgment or final order to stand. The remedy from the denial is to assail the denial in the course of an appeal of the judgment or final order itself.

Thus, Oppositor-Appellant should have appealed the decision of the trial court and not the denial of her motion for reconsideration.

Ownership of the Subject Property;
Not in Issue

Finally, even granting for the sake of argument that Oppositor-Appellant's motion for reconsideration was not pro forma and that it was filed within the reglementary period for taking an appeal, still the same is dismissible for having been improperly filed. It is to be emphasized that the petition filed by Petitioners-Appellees was one for re-issuance of lost owner's duplicate copy of OCT No. RO-3173. In a petition for issuance of a second owner's duplicate copy of certificate of title in replacement of a lost one, the only issues to be resolved are: whether or not the original owner's duplicate copy had indeed been lost and whether the petitioner seeking the issuance of a new owner's duplicate title is the registered owner or other person in interest.[38] The trial court found out that Petitioners-Appellees are the real parties-in-interest since the title of Lot No. 4278 is still in the name of their predecessors-in-interest. Moreover, the trial court was convinced that they have sufficiently proven the fact of loss of OCT No. RO-3173, thus the necessity for issuing another owner's duplicate copy of the title.

Thereafter, Oppositor-Appellant came forward raising the issue of ownership over the subject property in the petition for re-issuance of lost owner's duplicate copy of OCT No. RO-3173. This is improper since her claim of ownership over the said property is extraneous or impertinent to the object of the present petition. The ownership of the subject property is not at all in issue. The Supreme Court in the case of *Faustina Camitan and Damaso Lopez vs. Fidelity Investment Corp.*[39] expounded, thus:

In a petition for the issuance of a new owner's duplicate copy of a certificate of title in lieu of one allegedly lost, on which this case is rooted, the RTC, acting only as a land registration court with limited jurisdiction, has no jurisdiction to pass upon the question of actual ownership of the land covered by the lost owner's duplicate copy of the certificate of title. Consequently, any question involving the issue of ownership must be threshed out in a separate suit where the trial court will conduct a full-blown hearing with the parties presenting their respective evidence to prove ownership over the subject realty. (emphasis supplied)

It is evident that the issue of ownership is of no consequence to the present petition. Oppositor-Appellant's claim can be properly threshed out in a separate and independent civil action where there will be a full blown trial and both parties are given a chance to adduce evidence to substantiate their claim of ownership. This cannot be done by the mere filing of a motion for reconsideration in a petition for re-issuance of lost owner's duplicate copy of certificate of title.

Furthermore, Oppositor-Appellant had been given a chance to oppose the present petition with the trial court but she failed to file her opposition thereto within the period for filing the same.

All the foregoing premises considered, this Court finds that there is no more need to resolve the other issues advanced by the Oppositor-Appellant.

WHEREFORE, the instant appeal is DENIED. The Decision of the Regional Trial Court, Branch 27 of Lapu-lapu City dated 19 October 2009 in CAD. Case No. R-LLP-09-05268-CV and its Order dated 23 April 2010 denying Oppositor-Appellant's Motion for Reconsideration and Motion to Order the Register of Deeds of Lapu-lapu City

to hold in abeyance the issuance of Owner's Duplicate of Title or Motion to Re-issue Owner's Duplicate of Title to the Oppositor are hereby AFFIRMED.

SO ORDERED.

Delos Santos, E.L., Chairperson., and Lagura-Yap, M.B., JJ., concur.

- [1] Records, pp. 66-67.
- [2] Ibid., pp. 38-42.
- [3] Ibid., pp. 6-7.
- [4] Ibid., pp. 8-10.
- [5] Ibid., pp. 3-5.
- [6] Ibid., p. 11.
- [7] Ibid., p. 12.
- [8] *supra.*, note 4.
- [9] Records, pp. 35-36.
- [10] *supra.*, note 2.
- [11] Records, pp. 56-58.
- [12] *supra.*, note 1.
- [13] Records, pp. 70-71.
- [14] Ibid., p. 80.
- [15] Reply to Petitioner's Opposition to Oppositor's Motion for Reconsideration, p. 1; Records, pp. 59-61.
- [16] Records, p. 86.
- [17] Rollo, pp. 19-30.
- [18] Brief for Defendant-Appellant, p. 7; Rollo, p. 27.
- [19] Ibid.
- [20] Ibid.
- [21] Ibid., p. 6; Rollo, p. 26.
- [22] Ibid.
- [23] Brief for Petitioners-Appellees, p. 5; Rollo, p. 54.
- [24] Ibid.
- [25] Ibid., p. 6; Rollo, p. 55.
- [26] Ibid.

[27] Ibid., p. 7; Rollo, p. 56.

[28] Section 3, Rule 41, Rules of Court.

[29] *supra.*, note 2.

[30] *Gadrinab vs. Salamanca, Talao and Lopez*, G.R. No. 194560, June 11, 2014 citing *FGU Insurance Corp. vs. RTC*, G.R. No. 161282, February 23, 2011.

[31] Section 2, Rule 37, Rules of Court.

[32] *Juliet Vitug Madarang and Romeo Bartolome vs. Spouses Jesus and Carolina Morales*, G.R. No. 199283, June 9, 2014.

[33] *Pedro Resurreccion, et. al. vs. People*, G.R. No. 192866, July 9, 2014 citing *Tan vs. CA*, G.R. No. 130314, September 22, 1998.

[34] Section 2, Rule 37, Rules of Court.

[35] Brief for Defendant-Appellant, p. 1; Rollo, p. 21.

[36] Section 9, Rule 37, Rules of Court.

[37] G.R. No. 159941, August 17, 2011.

[38] *Elvira Macabalo-Bravo, et. al., vs. Juan Macabalo, et. al.*, G.R. No. 144099, September 26, 2005 citing *New Durawood Co., Inc. vs. CA*, G.R. No. 111732, February 20, 1996.

[39] G.R. No. 163684, April 16, 2008 citing *Rexlon Realty Group, Inc. vs. Court of Appeals*, G.R. No. 128412, March 15, 2002.

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