

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND DELFINA S. DOLOR, RESPONDENTS.

G.R. No. 100995. September 14, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

On 10 August 1988, private respondent Delfina S. Dolor filed an application before the Regional Trial Court of Daet, Camarines Norte, for the confirmation and registration of her title to a 908-square meter residential lot located at the interior of Dencio Cabanela Street, Poblacion, Daet, Camarines Norte, described on Plan Ccn-05-000025 and covered by Tax Declaration No. 005-0823.

On 25 November 1988, when the case was called for initial hearing, the Fiscal entered his appearance on behalf of petitioner Republic of the Philippines. Respondent Delfina S. Dolor moved that an order of general default be issued against the whole world except petitioner which had filed an opposition. On the same date, the trial court issued an order, stating:

When this case was called for initial hearing today, only the Fiscal in behalf of the Republic of the Philippines interposed an opposition to the application.

Applicant, thru counsel, prayed for the issuance of an order of general default against the whole world with the exception of the Republic of the Philippines represented by the Fiscal.

It appearing from the record that the jurisdictional requirements have been complied with and there being no private oppositor to the application, the reception of evidence is hereby delegated to the Branch Clerk of Court who is required to render a report within twenty (20) days from the date of hearing which is hereby set on Dec. 20, 1988 at 9:00 o'clock in the morning.[1]

At the hearing on 20 December 1988, respondent Dolor's counsel marked as Exhibits "A" to "D," respectively, the Notice of Initial Hearing, the Certificate of Publication of the Notice of Initial Hearing in the Official Gazette, the Affidavit of Publication of the Editor of the "Weekly Informer," and the Certification or Return of Posting by the Deputy Sheriff.

Satisfied that respondent Dolor had a registerable title over subject property the trial court in its decision of 17 August 1989 confirmed her title thereto and ordered its registration as her exclusive property.[2]

Petitioner assailed the trial court's decision before the Court of Appeals on a purely jurisdictional ground. Petitioner argued that it was incumbent upon respondent Dolor to show proof that on or before the date of initial hearing on 25 November 1988, there had been compliance with the requirements specified by Sec. 23 of P.D. 1529, otherwise known as The Property Registration Decree, to wit:

Sec. 23. Notice of initial hearing, publication, etc. - The court shall, within five days from filing of the application, issue an order setting the date and hour of the initial hearing which shall not be earlier than forty-five days nor later than ninety days from the date of the order.

The public shall be given notice of the initial hearing of the application for land registration by means of (1) publication; (2) mailing; and (3) posting.

1. By publication. - Upon receipt of the order of the court setting the time for initial hearing, the Commissioner of Land Registration shall cause a notice of initial hearing to be published once in the Official Gazette and once in a newspaper of general circulation in the Philippines; Provided, however, that the publication in the Official Gazette shall be sufficient to confer jurisdiction upon the court. Said notice shall be addressed to all persons appearing to have an interest in the land involved including the adjoining owners so far as known, and 'to all whom it may concern'. Said notice shall also require all persons concerned to appear in court at a certain date and time to show cause why the prayer of said application shall not be granted x x x x

The records show that while the trial court stated that the jurisdictional requirements were complied with on 25 November 1988, they were yet to be presented on 20 December 1988 before its Branch Clerk, the designated Commissioner.

In its decision dated 16 July 1991, the appellate court affirmed the decision of the trial court.[3] It found petitioner's submission not only too formalistic but also contrary to the facts and the law and in derogation of substantial justice, rationalizing thus -

We find that the requirements of Sec. 23 of Presidential Decree No. 1529 have been complied with in the instant case. The record shows that the Notice of Initial Hearing set on November 25, 1988, issued by the Administrator, National Land Titles and Deeds Registration Administration (Exh. "A") had been published in the September 10, 1988 issue of the 'Weekly Informer' (Exh. "C") and in Volume 84, No. 42 of the Official Gazette issue of October 17, 1988 (Exh. "B"), and posted in the prescribed conspicuous places in the subject parcel of land and the municipal building of Daet, Camarines Norte by the Sheriff (Exh. "D"). The documents attesting to the compliance with Sec. 23 of PD 1529 were attached to the record even before the date of the initial hearing of the instant Land Registration Case No. N-678 x x x x

The appellant claims that while the presiding judge of the trial court stated that 'the jurisdictional requirements have been complied with' on November 25, 1988, the jurisdictional requirements have yet to be presented on December 20, 1988 before the Branch Clerk of Court, the designated Commissioner. Hence, appellant argues, the Order of November 25, 1988 had no basis in fact and in law; there was no notice to interested persons adjoining owners, and the whole world; and jurisdiction to hear and decide the case has not yet been conferred with the court on November 25, 1988.

We cannot agree. The jurisdiction is not conferred by the marking of the relevant documents as exhibits, but by the fact that all the requirements of Sec. 23, PD 1529 had been complied with as shown by those documents proving compliance therewith, identified later as Exhibits "A" to "D," which were all attached to the records of the case even before November 25, 1988. The trial court is not precluded from taking cognizance of its own record. Although in actual practice, it is incumbent upon the applicant's counsel to mark those documents as exhibits at the initial hearing to prove the jurisdictional facts, the omission of such markings by applicant's counsel who might have been as yet unfamiliar with such practice would not deprive the trial court of its jurisdiction to hear and proceed with the trial of the case, for the simple reason that the jurisdictional requirements have been complied with as shown by the documents that were already attached to the record of the case and of which the trial court can take judicial notice. The failure of the Fiscal as well as the Presiding Judge to have called the attention of the counsel for the applicant to proceed with the marking of the documents to prove the jurisdictional facts would not have deprived the trial court of its jurisdiction to hear and decide the case. Neither would the marking of those documents later after the initial hearing deprive the trial court of its jurisdiction.[4]

In this petition, while petitioner concedes that the jurisdiction to take cognizance of the case is not conferred by the marking of the relevant documents as exhibits but, rather, by the fact that all the jurisdictional requirements of

law had been carried out, yet, it takes exception to the factual finding that there was compliance with the jurisdictional requirements. As borne out by the records, at the scheduled date of initial hearing on 25 November 1988 and even during the actual hearing on 20 December 1988, the publication requirement in the Official Gazette was yet to be complied with. Although the Notice of Initial Hearing was included for publication in the 17 October 1988 issue of the Official Gazette, specifically Vol. 84, No. 42, thereof, the same was however released for publication only on 31 January 1989, as shown by the Certificate of Publication issued by the Director of the National Printing Office.[5] In other words, the actual publication of the notice came out sixty-seven (67) days after the scheduled initial hearing and/or forty-two (42) days after private respondent had rested her case. Petitioner concludes that the late publication did not vest jurisdiction in the trial court.

In petitioner's brief filed before respondent Court of Appeals, we note that the issue of late publication of the Notice of Initial Hearing in the Official Gazette was raised squarely. But for no apparent reason, the issue was ignored in the questioned decision. Indeed, respondent court could have easily resolved the issue in favor of petitioner supported as it was not only by competent evidence but also by ample jurisprudence.

The primary legal principle against which the legality of all the proceedings conducted by the trial court should be tested is jurisdiction. In order to ascertain whether a court has jurisdiction, the provision of the law in point should be inquired into.[6] Section 23 of P.D. 1529 explicitly provides that before the court can act on the application for land registration, the public shall be given notice of the initial hearing thereof by means of publication, mailing, and posting. In *Director of Lands v. Court of Appeals*,[7] citing *Caltex v. CIR*,[8], this Court ruled that in all cases where the authority of the courts to proceed is conferred by a statute and when the manner of obtaining jurisdiction is mandatory it must be strictly complied with, or the proceedings will be utterly void. So that where there is a defect of publication of petition, such defect deprives the court of jurisdiction.[9] And when the court lacks jurisdiction to take cognizance of a case, the same lacks authority over the whole case and all its aspects.[10]

In *Register of Deeds of Malabon v. RTC, Malabon*,[11] an issue similar to the one presented in the present petition was posed, that is, whether the actual publication of the notice of the petition in the Official Gazette forty-seven (47) days after the hearing, instead of at least thirty (30) days prior to the date of hearing,[12] was sufficient to vest jurisdiction in the court to hear and determine the petition. We answered in the negative since the purpose of the publication of the notice of the petition for reconstitution in the Official Gazette is to apprise the whole world that such a petition has been filed and that whoever is minded to oppose it for good cause may do so within thirty (30) days before the date set by the court for hearing the petition. It is the publication of such notice that brings in the whole world as a party in the case.

Regarding applications for land registration, the purpose of publication of the notice of initial hearing is the same: to require all persons concerned who may have any rights or interests in the property applied for to appear in court at a certain date and time to show cause why the application should not be granted. In particular, the notice in this case commanded all persons concerned:

x x x to appear before this Court at its session to be held at Branch XXXVIII, Municipality of Daet, Province of Camarines Norte, Philippines, on the 25th day of November, 1988, at 8:30 o'clock in the forenoon, then and there to present such claims as you may have to said land or any portion thereof, and to submit evidence in support of such claims, and unless you appear at said Court at the time and place aforesaid, your default will be recorded and the title to the land will be adjudicated and determined in accordance with law and the evidence before the Court, and thereafter you will forever be barred from contesting said application (or petition) or any decree entered thereon[13] (underscoring supplied).

Section 23 of P.D. 1529 does not provide a period within which the notice should be published in the Official

Gazette but for reasons already obvious, the publication should precede the date of initial hearing. While there is no dispute that the notice was included in Vol. 84, No. 42, 17 October 1988 issue of the Official Gazette, this particular issue was released for publication only on 31 January 1989 when the initial hearing was already a fait accompli. The point of reference in establishing lack of jurisdiction of the trial court was 31 January 1989 because it was only on that date when the notice was made known to the people in general.[14] Verily, the late publication of the notice defeated the purpose for its existence thereby reducing it to a mere pro forma notice.

By reason of the defective notice of initial hearing, all the proceedings conducted by the trial court which culminated in its decision granting the prayer of respondent Dolor are declared VOID and it was error for respondent Court of Appeals to have sustained the same.

WHEREFORE, the petition is GRANTED. The questioned decision of respondent Court of Appeals which affirmed the decision of the Regional Trial Court of Daet, Camarines Norte, is VACATED and SET ASIDE, and the application of private respondent for the confirmation and registration of her title over the property described therein is DENIED.

SO ORDERED.

Davide, Jr., Quiason, and Kapunan, JJ., concur.
Cruz, J., (Chairman), on leave.

[1] Rollo, p. 35.

[2] LRC Case No. 678, NLTDRA Rec. No. N-60771, Annex "D," Petition; Rollo, pp. 37-39.

[3] Decision penned by Justice Celso L. Magsino with Justices Serafin E. Camilon and Artemon D. Luna concurring; Rollo, pp. 31--34.

[4] Id., pp. 32-33.

[5] Annex "C," Petition; Rollo, p. 36.

[6] Auyong v. Court of Tax Appeals, No. L-25181, 11 January 1967, 19 SCRA 10.

[7] No. L-45168, 27 January 1981, 102 SCRA 370.

[8] No. L-28472, 30 April 1968, 23 SCRA 492.

[9] Po v. Republic, No. L-27443, 19 July 1971, 40 SCRA 37.

[10] Development Bank of the Phils. Employees Union v. Perez, Nos. L-22584 and L-23083, 30 May 1972, 45 SCRA 179.

[11] G.R. No. 88623, 5 February 1990, 181 SCRA 788.

[12] As mandated in Sec. 9, R.A. 26, An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed.

[13] Annex "B-1," Memorandum for Private Respondent; Rollo, p. 124.

[14] People v. Veridiano II, G.R. No. 62243, 12 October 1984, 132 SCRA 523.

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