

LIFE HOMES REALTY CORPORATION, PETITIONER, VS. COURT OF APPEALS AND MARVI DEVELOPMENT, INC., RESPONDENTS.

G.R. NO. 120827. February 15, 2007

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is an appeal from the Decision of the Court of Appeals (CA) in CA-G.R. CV No. 38409 dismissing the appeal of petitioner Life Homes Realty Corporation for lack of merit. The CA ruled that the ordinary civil action for recovery of possession filed by petitioner against private respondent Marvi Development, Inc. (Marvi) is not the proper remedy in this case.

The facts are:

Petitioner Life Homes Realty Corporation is the registered owner of two parcels of land located in Barrio Ampid, San Mateo, Rizal covered by TCT No. N-28603 (Psu-52080) and TCT No. 31730 (Psu-52085) of the Register of Deeds of Rizal, which have been subdivided into lots for residential/subdivision purposes. To the south and southwest of the lots is a parcel of land registered in the name of private respondent Marvi under TCT No. 309740 (Psu-52084) of the Register of Deeds of Rizal. Private respondent's property has likewise been subdivided into lots for residential/subdivision purposes.

In 1979, petitioner discovered, upon a relocation and verification of the boundaries of its property, that the southern and southwestern portions of its property were encroached upon, developed and occupied by private respondent for subdivision purposes. The encroachment of private respondent's property (plan Psu-52084) over petitioner's properties (plan Psu-52080 and Psu-52085) allegedly covered a total area of 10,365 square meters.

Both parties subsequently agreed to have an independent relocation survey conducted by a Government Geodetic Engineer to decide whether there was overlapping of the aforementioned properties, and that the party found to have an erroneous survey shall shoulder the expenses of the relocation survey. Marvi agreed to such proposal in its letter of April 10, 1981.[1]

Thus, in a letter[2] dated May 11, 1981, the parties requested the Director of the Bureau of Lands, Manila for a relocation survey of their properties.

After acceding to the request, the Chief of the Technical Services of the Bureau of Lands, Engr. Felipe R. Venezuela, submitted his report (Venezuela report) of the verification survey of Psu-52080, Psu-52084 and Psu-52085, Barrio Ampid, San Mateo, Rizal in a letter dated April 28, 1983 addressed to the Regional Land Director through the Chief, Surveys Division of the Bureau of Lands.

The report reads:

x x x

Sir:

In connection with Office Memorandum dated 26 April 1981 regarding the joint request of Life Homes Realty Corporation and Marvi Hills Development to verify the lots covered by plan Psu-52080, Psu-52084 and Psu-52085 as relocated by their respective surveyors, the undersigned respectfully submit[s] the following findings based on the verification survey conducted to wit:

- 1) Engr. Isabelo Muñoz was hired by Marvi Hills Development to relocate their properties covered by plan Psu-177242 and plan Psu-52084. His relocation was conducted prior to the cadastral survey of San Mateo, Rizal. The boundaries and corners were then set on the ground by using the technical description as appearing on transfer certificate of title No. 4641 and approved plan Psu-52084;
- 2) On November 10, 1964 to December 20, 1965, the municipality of San Mateo, Rizal was cadastrally surveyed by Engr. Regino Rigor under Cad-375-D, San Mateo, Rizal, plan Psu-52084 becomes identical to lot 3680 and 3031, San Mateo Cadastre. Similarly plan Psu-52080 and plan Psu-52085 were assigned a cadastral lot number of 3037 and 3031, Cad-375-D, San Mateo Cadastre. These three lots were accepted by the cadastral survey;
- 3) Engr. Regino Natividad is the Geodetic Engineer of Life Homes Realty Corporation. As such, his duty is to relocate the boundaries of plan Psu-52080 and plan Psu-52085 for the development of Life Homes Subdivision. It was during this relocation survey that he found out plan Psu-52084 encroached plan Psu-52080 and plan Psu-52085 thus the request for verification survey was referred to this office;
- 4) Considering that the request is for us to decide who is correct between Engr. Isabelo Muñoz and Engr. Regino Natividad relocation survey, the survey done by Engr. Natividad is correct in the sense that it adopt[s] the system of Cadastral survey. Furthermore, during the execution of the cadastral survey, plan Psu-177242 a titled property was found defective. It was not accepted and as amended, line 9-10 was amended from S.35 deg. 22'E., 108.75 m. to S. 28 deg. 43'E., 129.62 m. Also line 14-15 was amended from N.64 deg. 17'W., 371.91 m. to N.60 deg. 52'W., 382.58 m. Due to this amendments its area increases by THREE THOUSAND FIVE HUNDRED THIRTY NINE (3,539) SQ. METERS.

In view of the foregoing findings it is recommended that the Relocation survey executed by Engr. Regino Natividad be followed and that plan Psu-52084 as relocated by Engr. Isabelo Muñoz be Re-relocated using corner 7 and 8 of plan Psu-52080 and corner 4 of plan Psu-52085 as starting point and reference.[3]

Thereafter, petitioner made a demand on private respondent to vacate the alleged encroached area but private respondent refused.

On July 11, 1984, petitioner filed a complaint[4] against private respondent with the Regional Trial Court of San Mateo, Rizal, Branch 76 (RTC) for recovery of possession and damages, and prayed that private respondent be directed to move its boundaries common with that of the two parcels of land owned by it to those points and lines as determined by the verification and relocation survey included in the Venezuela report dated April 28, 1983; to vacate the encroached area, and pay the expenses for the relocation survey, attorney's fees and litigation expenses.

In its Answer, private respondent alleged that it is petitioner's parcels of land that wrongfully overlap its (private respondent's) property. By way of affirmative and/or special defenses, private respondent alleged that the agreement to allow Geodetic Engineer Venezuela to decide which of the two conflicting surveys is correct is null and void, and that the petitioner's land survey was a later survey which disregarded the previous survey of private respondent's property.

In its counterclaim, private respondent alleged that petitioner put up a steep boundary along private respondent's property, which posed a grave risk and danger of soil erosion, causing lot buyers to discontinue paying for the subdivision lots affected, and as a result deprived private respondent of profits. Hence, private respondent sought

payment of unrealized profits, attorney's fees of P50,000, litigation expenses of P10,000 and the refund of P3,482 which it paid to the Bureau of Lands.

On May 21, 1992, the RTC dismissed both the Complaint and the Counterclaim for lack of basis. The RTC ruled:

There is no gainsaying the fact that this case is anchored on the report of Felipe R. Venezuela. Objections interposed to the said report by the defendant are found to be impressed with merit in view of the following considerations: The report contained an admission that Plan Psu-177242, a titled property, was found defective and hence was amended. There is no showing, however, that the amendment of the said Plan was made by virtue of a Court Order nor that notice thereof was given to the owners of the adjoining lots, in violation of law and indeed, of due process. Since Plan Psu-177242 was approved by the Court resulting in the titling of the property, it follows that any amendment or alteration thereof, being mere incidents, would equally have to have judicial sanction.

Under the circumstances therefore, Venezuela's report, which sustained as correct the survey done by Engineer Natividad (for the plaintiff) based on the aforesaid amendment done violative of law, is necessarily void and of no effect.

Further compounding the observable inefficacy of Venezuela's report is the fact that said report was merely recommendatory, which can only mean that without the approval of the Regional Director of the Bureau of Lands to whom it was submitted, it can have no force and effect, and fittingly, can only be regarded as a mere scrap of paper. Plaintiff offered no proof that Venezuela's report was duly approved.

Rejecting therefore the correctness, validity and efficacy of Venezuela's report, this complaint, which primordially hinges on the said report, has no more leg to stand on.

WHEREFORE, premises considered, this case is hereby ordered dismissed for lack of basis. No pronouncement as to costs.

Defendant's counterclaim is likewise dismissed for lack of credible basis, the evidence submitted in support thereof being at the most, self-serving.

SO ORDERED.[5]

Both petitioner and private respondent appealed from the decision of the trial court to the CA.

Petitioner questioned the dismissal of its complaint, while private respondent questioned the dismissal of its counterclaim.

On June 22, 1995, the CA rendered judgment dismissing both appeals for lack of merit. The CA ruled that the report of Government Geodetic Engineer Venezuela was not binding upon the parties. Moreover, as pointed out by petitioner, the defects in the technical description contained in the plans prepared in connection with areas adjudicated in ordinary or voluntary registration proceedings may be corrected after a cadastral survey in accordance with Sec. 112 of Act 496,[6] which has been superseded by Sec. 108 of Presidential Decree (P.D.) No. 1529.[7]

The CA stated that under Sec. 112 of Act 496, now Sec. 108 of P.D. No. 1529, the petition for correction shall be filed and entitled in the original case in which the decree of registration was entered. Hence, the CA held that the ordinary civil action for recovery of possession is not the proper remedy of petitioner.

On August 8, 1995, petitioner filed this petition for review on certiorari of the decision of the CA.

Petitioner raised the following issues:

- The respondent Court erred in holding that the Venezuela report is not binding upon the parties.

- The respondent court erred in holding that the re-relocation survey recommended by Venezuela amounts to an erasure, alteration or amendment of a certificate of title which requires the filing of a petition for that purpose in the original case in which the decree of registration was entered.[8]

Petitioner argues that the CA erred in holding that the Venezuela report is not binding upon the parties, because:

- the engagement of the Government Geodetic Engineer to conduct an independent survey to determine whether there was overlapping of the subject lots was based on an agreement between the parties that they would be bound by the results thereof and to accordingly make the proper adjustments to their landholdings;
- the objection of private respondent to the Venezuela report was natural since it was unfavorable to it. Before the report was made, private respondent never made an issue of the supposed amendment of petitioner's survey plan; hence, raising such issue after the Venezuela report is an afterthought; and
- private respondent is estopped from repudiating the Venezuela report because it agreed with petitioner that an independent survey be conducted to decide once and for all their respective irreconcilable surveys.

Petitioner's argument is without merit.

The CA correctly ruled that the Venezuela report is not binding upon the parties, thus:

First, when the parties agreed to request the Director of the Bureau of Lands to settle the disagreement between their respective surveyors regarding the "common boundary in the actual ground," there was no express agreement that the verification survey would be deemed final and binding upon the parties, a stipulation which the parties could have easily entered into had they so intended.

Second, when a copy of the Venezuela report was furnished to private respondent's counsel, the latter promptly objected to the report as erroneous on the ground that Geodetic Engineer Venezuela erred in adopting the relocation survey made by petitioner's geodetic engineer because it was based on the illegal amendment of Psu-17742, a titled property, by the cadastral survey since the amendment was made without court order. Contrary to the contention of petitioner, the objection cannot be considered an afterthought.

Third, the request[9] of the parties for a verification survey to be conducted by a Government Geodetic Engineer was addressed to the Director of the Bureau of Lands, and the report of Geodetic Engineer Venezuela was addressed to the Regional Land Director through the Chief, Surveys Division, Bureau of Lands, National Capital Region. There is no evidence that the Bureau of Lands Regional Director to whom the report was submitted approved the report. Hence, the report has remained recommendatory and not valid without the approval of the proper government authority.

Fourth, petitioner does not dispute the conclusion of the RTC that the alleged amendment or alteration of Plan Psu-177242, a property titled before the cadastral survey of the municipality of San Mateo, Rizal in 1964-1965, was made without notice to the owners of the adjoining lots. Such an amendment/alteration effected without notice to affected owners would not be in compliance with law nor the requirements of due process.

Moreover, the Venezuela report contained an admission that Plan Psu-177242, a titled property (owned by Marvi), was found defective and was amended, thus:

[D]uring the execution of the cadastral survey, plan Psu-177242 a titled property was found defective. It was not accepted and as amended, line 9-10 was amended from S.35 deg. 22'E., 108.75 m. to S. 28 deg. 43'E., 129.62 m. Also line 14-15 was amended from N.64 deg. 17'W., 371.91 m. to N.60 deg. 52'W., 382.58 m. Due to this amendments its area increases by THREE THOUSAND FIVE HUNDRED THIRTY NINE (3,539) SQ. METERS.

The Court agrees with the CA that such defects in plans prepared in connection with areas adjudicated in ordinary or voluntary registration proceedings may be corrected after the cadastral survey in accordance with Sec. 108 of P.D. No. 1529, thus:

SEC. 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 by Register of Deeds, except by order of the proper Court of First Instance. A registered owner or 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 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; x x x 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. x x x

All petitions or motions filed under this Section as well as under any other provision of this Decree after original registration shall be filed and entitled in the original case in which the decree or registration was entered.[10]

The last paragraph above provides that a petition for correction shall be filed and entitled in the original case in which the decree of registration was entered. As stated by the CA, the jurisdiction to entertain the petition lies with the Land Registration Court which heard and decided the voluntary registration proceedings filed by private respondent. The rule aims to prevent confusion and to avoid difficulty in tracing the origin of entries in the registry.[11]

Next, petitioner argues that Geodetic Engineer Venezuela's recommendation of a re-relocation survey is not tantamount to an alteration of the title earlier issued to Marvi by virtue of a private survey. Petitioner asserts that it is clear from the letter-request of the parties to the Bureau of Lands that the titles and the survey plans of the parties do not overlap each other. The overlapping occurs only on the actual plotting on the ground. This indicates that there is nothing wrong with the technical description of the Marvi property as stated in the court decree and court-approved plan. There is thus no need to deviate therefrom. What is only required is that Marvi follow the correct starting point and reference which, as stated in the report of Geodetic Engineer Venezuela, is to use "corner 7 and 8 of plan Psu-52080 and corner 4 of plan Psu-52085." Petitioner contends that this is not the erasure, alteration or amendment referred to in Section 112 of Act 496, now Sec. 108 of P.D. No. 1529, which requires court approval. Instead, it is a simple matter of Marvi properly plotting its landholdings using the proper starting points. Hence, petitioner contends that the finding of the CA that a court order to correct the defects in Marvi's plans and title is necessary must be set aside.

The argument is untenable.

Granting that the Venezuela report is an authorized issuance of the Bureau of Lands, said report stated that Marvi's properties were covered by Plan Psu-177242 and Plan Psu-52084. The properties were relocated prior to the cadastral survey of San Mateo, Rizal. The boundaries and corners of the property were set on the ground by using the technical description appearing on OCT No. 4641 (Plan Psu-177242)[12] and Plan Psu-52084.

However, Plan Psu-177242 was later amended, without court order, during the cadastral survey as it was found defective. It is only proper that the amendment made during the cadastral survey be properly reflected in the corresponding TCT of Marvi or the proper party in accordance with Sec. 108, P.D. No. 1529.

WHEREFORE, the petition is DENIED for lack of merit and the Decision of the Court of Appeals in CA-G.R. CV No. 38409 is AFFIRMED.

No costs.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1] Records, p. 57.

[2] Id. at 60.

[3] Id. at 62.

[4] Civil Case No. 133.

[5] CA Rollo, pp. 43-44.

[6] The Land Registration Act.

[7] Property Registration Decree.

[8] Rollo, pp. 14-15.

[9] Id. at 60.

[10] Emphasis supplied.

[11] Noblejas, Registration of Land Titles and Deeds, 1986 ed., p. 190.

[12] Exhs. "7" to "8," Records, pp. 291-292.

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