

**DURISOL PHILIPPINES, INC., PETITIONER, VS. COURT OF APPEALS,
HON. ADRIANO R. OSORIO, JUDGE, RTC, BRANCH 171, VALENZUELA,
METRO MANILA, DEVELOPMENT BANK OF THE PHILIPPINES,
MANIL...**

G.R. No. 121106. February 20, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is a petition for review of the decision of the Court of Appeals in CA-G.R. SP No. 35069 dated January 20, 1995, dismissing petitioner Durisol Philippines, Inc.'s petition for annulment of judgment.[1]

On January 17, 1962 and December 5, 1969, petitioner Durisol obtained industrial loans from respondent Development Bank of the Philippines (DBP) amounting to P1,213,000.00 and P2,698,800.00, respectively. As security therefor, petitioner executed a mortgage on two parcels of registered land located in Polo (now Valenzuela), Bulacan, covered by Transfer Certificates of Title Nos. 29906 and 29909.

After petitioner defaulted in the payment of the loans, DBP instituted on August 21, 1970 a petition for the extrajudicial foreclosure of mortgage. On March 6, 1972, petitioner's president, Rene Knecht, borrowed from DBP the two TCT's purportedly to obtain new titles in accordance with the approved subdivision plan of the properties. DBP agreed provided that the bank's existing encumbrances, including the mortgage, shall be annotated on all the new certificates of title.

In the meantime, the foreclosure sale was held, wherein DBP emerged as the highest bidder. On October 9, 1973, the corresponding certificates of sale were issued to DBP. Petitioner, however, filed a complaint for annulment of the extrajudicial foreclosure before the then Court of First Instance (CFI) of Valenzuela, Bulacan, docketed as Civil Case No. 605-V. The CFI rendered judgment upholding the validity of the foreclosure. Petitioner appealed to the Court of Appeals, which affirmed the decision of the CFI. The decision of the Court of Appeals became final on April 30, 1975.

Petitioner was able to obtain TCT Nos. T-167751 and T-167752 in lieu of the mother title, TCT No. 29906, and TCT Nos. T-187023 to T-187027 in lieu of the other mother title, TCT No. 29909, all issued in its name.

Contrary to its promise, however, petitioner never returned the titles to the properties to DBP. Thus, despite having purchased the properties at the foreclosure sale, DBP was unable to register the property in its name. On February 25, 1977, DBP instituted before the Court of First Instance of Valenzuela, Bulacan, Branch VIII, a petition for surrender of the owner's duplicate titles covering the foreclosed properties, docketed as (AD) Case No. 35-V-77, LRC Record No. 5941.[2]

Petitioner filed its answer, raising the defenses that the petition fails to state a cause of action; that it had already paid its loans to DBP; that it had a valid adverse claim on the properties covered by the seven new titles; and that DBP's action was barred by laches and estoppel.[3] DBP filed a reply alleging that petitioner failed to exercise its

right of redemption of the properties which were sold at public auction after foreclosure of the mortgage thereof.

On April 15, 1977, the trial court rendered summary judgment, ordering petitioner to surrender to the court within five days the seven certificates of title.[4] Petitioner filed a motion for reconsideration, which contained an alternative prayer to record in the titles its adverse claim representing the amount of improvements it introduced on the property.[5] The lower court denied petitioner's motion for reconsideration in an Order dated August 22, 1977.[6]

Petitioner thus appealed to the Intermediate Appellate Court, docketed as AC-G.R. CV No. 65324. On July 9, 1984, the IAC rendered a decision ordering that the case be remanded to the lower court for further proceedings.[7] The IAC held that it was improper for the trial court to render summary judgment because there were genuine issues involved. This decision became final and executory.

Respondent DBP filed before the lower court a motion to dispense with the proceedings and, instead, to pronounce judgment based on the admissions contained in the pleadings and the decision of the IAC.[8] This motion was denied.[9] The case was then set for hearing on November 15, 1988. On the scheduled date, neither petitioner nor its counsel appeared despite due notice. DBP was therefore allowed to present evidence ex parte.

On January 10, 1989, the trial court issued the following Resolution:

IN VIEW OF ALL THE FOREGOING, the Court hereby holds that the petition should be granted and the respondent through its President and General Manager is hereby ordered to surrender and deliver the owner's duplicate of Transfer Certificate of Title Nos. T-187023, T-187024, T-187025, T-187026, T-187027, T-167751 and T-167752, all of Bulacan Registry, to the Clerk of Court, or to the petitioner, within five (5) from receipt of this resolution.[10]

Sixteen days after receipt of the copy of the resolution, petitioner filed a motion for reconsideration alleging that the ex parte presentation of evidence, being akin to a judgment by default, was done in violation of its right to due process. The lower court denied the motion for having been filed out of time and for lack of notice of hearing.[11]

Respondent DBP, thus, filed a motion for execution, which was granted.[12] The writ, however, was returned unserved because petitioner was not found in the address stated in the record. An alias writ of execution was issued against petitioner's president, Rene Knecht, but the latter refused to comply with the order to surrender the titles. Hence, on motion of DBP, an Order was issued on April 4, 1990 directing the Register of Deeds of Bulacan to cancel the seven titles and to issue new ones in lieu thereof.[13] Accordingly, new certificates of title were issued to DBP.[14]

Thereafter, DBP sold the lots covered by TCT Nos. T-180723 to T-180727 and T-167752 to respondent Manila Fertilizers, Inc.. The latter, in turn, sold the lots covered by TCT Nos. T-108723 to T-108727 to respondent Polar Mines and Development Corporation. On the other hand, the property included in TCT No. T-167751 was sold by DBP to respondent spouses Villarama, for which TCT Nos. V-18494 to V-18501 were issued, and to respondents Rolando Ang See, Remedios Reyes, the spouses Cabrales and the spouses Go Gabriel.

More than four years later, or on September 2, 1994, petitioner instituted before the Court of Appeals a petition to annul the trial court's decision dated January 10, 1989 and Resolution dated April 4, 1990, alleging for the first time that the trial court had no jurisdiction over the case.[15] Petitioner prayed that the certificates of title issued in the names of all private respondents, except DBP, be annulled and that TCT Nos. T-167751 and T-167752 and T-187023-187027 be reinstated.

On January 20, 1995, the Court of Appeals rendered the now assailed decision dismissing the petition for annulment of judgment.[16] Petitioner Durisol's subsequent motion for reconsideration was likewise denied for

lack of merit.[17] Hence this petition.

The issues raised in this petition are: (1) whether or not the trial court had jurisdiction over the petition for issuance of new duplicate owner's certificate of title; and (2) whether or not petitioner was estopped from challenging the court's lack of jurisdiction.

The first paragraph of Rule 47, Section 2, of the 1997 Rules of Civil Procedure provides:

Grounds for annulment. — The annulment may be based only on the ground of extrinsic fraud and lack of jurisdiction.

At the outset, it should be stressed that in a petition for annulment of judgment based on lack of jurisdiction, petitioner must show not merely an abuse of jurisdictional discretion but an absolute lack of jurisdiction. Lack of jurisdiction means absence of or no jurisdiction, that is, the court should not have taken cognizance of the petition because the law does not vest it with jurisdiction over the subject matter. Jurisdiction over the nature of the action or subject matter is conferred by law.[18]

The regional trial court, formerly the court of first instance, is a court of general jurisdiction. All cases, the jurisdiction over which is not specifically provided for by law to be within the jurisdiction of any other court, fall under the jurisdiction of the regional trial court. But the regional trial court is also a court of limited jurisdiction over, among others, cadastral and land registration cases. All proceedings involving title to real property,[19] or specifically land registration cases, including its incidents such as the issuance of owner's duplicate certificate of title, are matters cognizable by the regional trial courts.[20] It has been ruled that the regional trial courts have jurisdiction over all actions involving possession of land, except forcible entry and illegal detainer.[21]

Respondent DBP, after petitioner's president unjustly refused to comply with the directive of the trial court to surrender the seven certificates of title, filed a petition under Section 107 of the Property Registration Decree (Presidential Decree No. 1529), to wit:

Surrender of withheld duplicate certificates. --- Where it is necessary to issue a new certificate of title pursuant to any involuntary instrument which divests the title of the registered owner against his consent of where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner's duplicate certificate of title, the party in interest may file a petition in court to compel the surrender of the same to the Register of Deeds. The court, after hearing, may order the registered owner or any person withholding the duplicate certificate to surrender the same, and direct the entry of a new certificate or memorandum upon such surrender. If the person withholding the duplicate certificate is not amenable to the process of the court, or if for any reason the outstanding owner's duplicate certificate cannot be delivered, the court may order the annulment of the same as well as the issuance of a new certificate of title in lieu thereof. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate.

The term "court" in the above-quoted section refers to Courts of First Instance, now Regional Trial Courts, as provided in Section 2 of the Property Registration Decree.

Even assuming arguendo that the regional trial court had no jurisdiction over the surrender of duplicate title, petitioner can no longer raise this ground after having actively participated in the prosecution of the case. A judgment rendered by a trial court for alleged lack of jurisdiction cannot be considered void where the party who has the right to challenge it failed to do so at the first instance. In the case at bar, petitioner did not raise the defense of lack of jurisdiction in its answer to respondent DBP's petition for surrender of owner's duplicate certificate. Neither did petitioner file any motion to dismiss on this ground. On the contrary, petitioner raised the affirmative defenses of failure to state a cause of action and payment.[22] To be sure, a court's lack of

jurisdiction over the subject matter and the failure of the complaint to state a cause of action are distinct and separate grounds for dismissal of a case.

As stated, petitioner actively participated in the course of the proceedings both in the trial court and in the appellate court. In its motion for reconsideration, petitioner assailed the merits of the decision without raising any argument pertaining to lack of jurisdiction of the trial court. When the case was elevated to the IAC and when the case was remanded to the trial court, petitioner did not allege lack of jurisdiction. In its motion for reconsideration of the trial court's order directing the issuance of new certificates of title, petitioner again failed to raise the ground of lack of jurisdiction.

Indeed, it was only two decades after the institution of the case at bar, when the issue of lack of jurisdiction was first raised. However, it is already too late since the judgment had already attained finality, considering that more than four years have elapsed without any action from petitioner.

Rule 47, Section 3 expressly provides that a petition for annulment of judgment based on lack of jurisdiction must be filed before it is barred by laches or estoppel. Hence, it has been held that while jurisdiction over the subject matter of a case may be raised at any time of the proceedings, this rule presupposes that laches or estoppel has not supervened. Thus:

This Court has time and again frowned upon the undesirable practice of a party submitting his case for decision and then accepting the judgment, only if favorable, and attacking it for lack of jurisdiction when adverse. Here, the principle of estoppel lies. Hence, a party may be estopped or barred from raising the question of jurisdiction for the first time in a petition before the Supreme Court when it failed to do so in the early stages of the proceedings.[23]

Petitioner argues that the then CFI had no jurisdiction when the case was remanded to it by the then IAC because as a cadastral court, the CFI had limited jurisdiction. It should be noted, however, that when the CFI took cognizance of the remanded case, the distinction between the CFI acting as a land registration court with limited jurisdiction, on the one hand, and a CFI acting as an ordinary court exercising general jurisdiction, on the other hand, has already been removed with the effectivity of the Property Registration Decree (PD 1529). The amendment was aimed at avoiding multiplicity of suits. The change has simplified registration proceedings by conferring upon the designated trial courts the authority to act not only on applications for "original registration" but also "over all petitions filed after original registration of title, with power to hear and determine all questions arising from such applications or petition." [24]

WHEREFORE, based on the foregoing, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. SP No. 35069 dated January 20 1995 is AFFIRMED in toto.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, and Kapunan, JJ., concur.

[1] Rollo, pp. 42-52; penned by Associate Justice Minerva P. Gonzaga-Reyes, concurred in by Associate Justices Eduardo G. Montenegro and Antonio P. Solano.

[2] CA Rollo, pp. 25-27.

[3] Ibid., pp. 31-35.

[4] Ibid., p. 42.

- [5] Annex “D-1”, Petition for Annulment of Judgment.
- [6] CFI Order dated August 22, 1977; CA Rollo, p. 50.
- [7] IAC (Special Second Civil Cases Division) Decision promulgated July 9, 1994; penned by Associate Justice Crisolito Pascual, concurred in by Associate Justices Marcelino Veloso and Desiderio Jurado.
- [8] CA Rollo, pp. 54-61.
- [9] Order dated June 16, 1986 issued by Judge Avelino M. Constantino, RTC Valenzuela.
- [10] Resolution dated January 10, 1989 issued by Judge Adriano R. Osorio, RTC Valenzuela, Branch 171.
- [11] RTC Order dated February 27, 1989; CA Rollo, p. 70.
- [12] RTC Order Dated June 9, 1989; CA Rollo p. 72.
- [13] CA Rollo, pp. 73-74.
- [14] Annexes “A” to “O”, Petition for Annulment of Judgment; CA Rollo, pp. 75-129.
- [15] CA Rollo. p. 22-23;
- [16] Rollo, pp. 42-53.
- [17] Ibid., p. 55.
- [18] See *Saura v. Saura, Jr.*, 313 SCRA 465 [1999]; *Robern Development Company v. Quitain*, 315 SCRA 150 [1999].
- [19] See *Batas Pambansa Blg. 129*, Section 19.
- [20] Presidential Decree No. 1529, Section 2.
- [21] *Serdoncillo v. Benolirao*, 297 SCRA 448 [1998].
- [22] Cf: *Cloma v. Court of Appeals*, 234 SCRA 665 [1994].
- [23] *Prudential Bank & Trust Company v. Reyes*, G.R. No. 141093, February 10, 2001, citing *Bañaga vs. Commission on the Settlement of Land Problems*, 181 SCRA 590 [1990].
- [24] *Vda. de Arceo v. Court of Appeals*, 185 SCRA 489, 494 [1990].

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