DIGNA VERGEL, EDUARDO SALVACRUZ, BEATRIZ MANACOP, FELICISIMA FLORES, GENEROSO SALVACRUZ, BLANDINO SALVACRUZ, MILAGROS SALVACRUZ AND THE HEIRS OF CORAZON SANTIAGO, PETITIONERS, V...

G.R. No. 125154. September 28, 2001

Ponente: PARDO, J.

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PARDO, J.:

The Case

The case is an appeal via certiorari from the decision of the Court of Appeals[1] setting aside the orders[2] of the trial court that denied petitioners' motion to set aside the order of general default[3] in an application for registration of a parcel of land, consisting of one thousand, one hundred seventy six (1,176), situated in barrio Batong Malake, municipality of Los Baños, province of Laguna.[4]

The Facts

The facts, as found by the Court of Appeals,[5] are as follows:

> "On May 26, 1994, Digna Vergel, Eduardo Salvacruz, Beatriz Mañacop, Felicisima Flores, Generoso and Blandino Salvacruz, Milagros Evangelista and the heirs of Corazon Santiago, namely: Leocadio, Jr. and Concepcion Santiago (petitioners herein) filed with the Regional Trial Court, Calamba, Laguna an application for registration of a parcel of land (for titling purposes).
>
> "On July 20, 1994, the Republic of the Philippines represented by the Director of Lands filed an opposition to the application for registration.
>
> "On December 15, 1994, the trial court issued "an order of general default against the whole world with the exception of Republic of the Philippines x x x."
>
> "On October 3, 1995, respondent Dorotea Tamisin Gonzales filed with the trial court an "Urgent Motion to Set Aside the Order of General Default" alleging, inter alia, in her affidavit that she "is claiming the land in question subject of this petition as an owner x x x" which motion was opposed by the petitioners herein.
>
> "On October 12, 1995, respondent filed with the trial court a reply to the opposition interposed by the petitioners and, at the same time, filed an "Urgent Motion" praying for the suspension of the proceedings.
>
> "On October 18, 1995, the trial court issued the first assailed order, the dispositive portion of which is quoted, as follows:
>
> `WHEREFORE, the motion to set aside the Order of default as well as the motion to suspend the proceedings filed by the movant through counsel is hereby denied for lack of merit.'
>
> "On October 20, 1995, petitioners filed with the trial court a "Motion to Strike Out Urgent Motion to Suspend Proceeding."

> "On November 21, 1995, respondent filed with the trial court a "motion for reconsideration" of the order denying the motion to set aside the order of general default, which motion petitioners opposed.
>
> "On November 28, 1995, the trial court issued its second questioned order, the dispositive portion of which reads as follows:
>
> `WHEREFORE, in view of the foregoing, the motion for reconsideration, dated November 16, 1995, is hereby denied for lack of merit.'
>
> "On December 13, 1995, respondent filed with the Court of Appeals[6] a petition for certiorari alleging that the trial court judge "acted capriciously and without or in excess of his jurisdiction and gravely abused the exercise of his discretion" in issuing the two aforementioned orders."[7]

On April 02, 1996, the Court of Appeals promulgated a decision annulling the trial court's orders dated October 18, 1995 and November 28, 1995, and consequently, setting aside the trial court's order of general default dated December 15, 1994, in Land Registration Case No. 88-94-C with respect to respondent.[8]

Hence, this appeal.[9]

The Issue

The issue presented is whether the Court of Appeals erred in setting aside the trial court's order of general default in the land registration case involved without making a specific finding of fraud, negligence, accident or excusable mistake but relying on its view that substantial justice and speedy determination of the controversy would be better attained in lifting the order of general default, to enable a claimant to oppose and to establish a case of ownership in herself.

The Court's Ruling

We grant the petition. The Court of Appeals arbitrarily set aside the trial court's order of general default without factual basis save for its own gut feeling, ipse dixit.[10] Respondent's failure to file timely opposition to the application for land registration because she missed reading the publication of the notice in the Official Gazette[11] or in the newspaper "Malaya" issue of August 8, 1994,[12] in itself may not be considered excusable negligence.

In respondent's motion to set aside order of general default, she alleged that petitioners were aware of her claim of ownership over the subject property, but did not give her personal notice of the filing of the application. She learned about the application by accident. In the petition for certiorari she filed with the Court of Appeals, respondent alleged that petitioners filed the application in bad faith, surreptitiously and without notice to her.[13] The Court of Appeals did not make a finding on this.

Hence, we find that the appellate court erred in setting aside the order of general default in the Land Registration Case No. 88-94-C, without making a specific finding of fraud, accident or excusable neglect that prevented respondent from timely opposing the application.

We are not a trier of facts. Consequently, we have to remand the case to the Court of Appeals for it to make findings of fact constituting fraud, accident or excusable neglect sufficient for the court to lift the order of general default in the land registration case involved.

The Fallo

WHEREFORE, the Court SETS ASIDE the decision of the Court of Appeals in CA-G. R. SP No. 39239.

Let the case be remanded to the Court of Appeals for further proceedings with instructions to determine whether

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there exists facts warranting the lifting of the order of general default in LRC Case No. 88-94-C of the trial court.

No costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] In CA-G. R. SP No. 39239, promulgated on April 2, 1998, Mabutas, Jr., J., ponente, Gonzaga-Reyes and Valdez, Jr., JJ., concurring. Petition, Annex "F", Rollo, pp. 135-138.

[2] Petition, Annexes "G" and "I", CA Rollo, pp. 52, 57.

[3] In LRC Case No. 88-94-C; Petition, Annex "B", CA Rollo, p. 33.

[4] Petition, Rollo, pp. 8-30. See Application for land registration, RTC Record, pp. 1-12.

[5] With editorial changes.

[6] Docketed as CA-G. R. SP No. 39239, Petition, CA Rollo, pp. 2-20.

[7] Court of Appeals Decision, Petition, Annex "F", Rollo, pp. 135-138, at pp. 136-137.

[8] Ibid.

[9] Filed on June 27, 1996, Petition, Rollo, pp. 8-30. On October 19, 1998, we gave due course to the petition (Rollo, pp. 191-192).

[10] George Yao v. Court of Appeals, G.R. No. 132428, October 24, 2000.

[11] Certificate of Publication, Exh. "D", Folder of Exhs., Vol. II, p. 3.

[12] Affidavit of Publication, Exh. "C", Original Record, p. 23.

[13] Petition for Certiorari, CA Rollo, pp. 2-18, at p. 11.

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