

REXLON REALTY GROUP, INC., PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HON. ARTURO T. DE GUIA, RTC JUDGE (CAVITE CITY), BRANCH 16, ALEX L. DAVID, THE REGISTER OF DEEDS FOR T...*G.R. No. 128412. March 15, 2002*

Ponente: DE LEON, JR., J.

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Before us is a petition for review of the Decision[1] dated November 19, 1996 and Resolution[2] dated February 7, 1997 of the Court of Appeals dismissing the petition for annulment of the Decision[3] dated March 1, 1994 of the Regional Trial Court (RTC) of Cavite, Branch 16, which granted the petition of respondent Alex L. David in L.R.C. Rec. No. 8843 for the issuance of new owner's duplicate copies of Transfer Certificates of Title Nos. T-72537 and T-72538 of the Registry of Deeds of the Province of Cavite.

The facts are as follows:

Respondent Alex L. David is the registered owner of two (2) parcels of land located in Molino, Bacoar, Cavite covered by Transfer Certificates of Title (TCT) Nos. T-72537 and T-72538, with areas of 7,801 and 42,253 square meters, respectively. On August 17, 1989, petitioner Rexlon Realty Group, Inc. (Rexlon, for brevity) entered into an agreement with respondent David for the purchase of the said two (2) parcels of land as evidenced by a document denominated as "Absolute Deed of Sale".

On February 18, 1994, David filed with the Regional Trial Court of Cavite City, Branch 16, a petition for the issuance of owner's duplicate copies of TCT Nos. T-72537 and T-72538 to replace the owner's duplicate copies which were allegedly lost. David alleged that he entrusted his owner's duplicate copies of the said TCTs to a friend and member of his staff for the purpose of showing them to a prospective developer who was interested in developing the subject parcels of land for commercial and/or industrial use; that the said owner's duplicate copies of said titles were misplaced and could not be found despite diligent efforts to locate the same; and that said owner's duplicate copies have not been delivered to any person or entity to secure payment or performance of any obligation.

Consequently, a notice of hearing was issued by the RTC ordering its branch Deputy Sheriff to post copies of the same at the Provincial Capitol Building, the public market, and the Barangay Hall of the locality where the properties are located. The said Deputy Sheriff then issued his Certificate of Posting stating that he has duly posted the Notice of Hearing at the said three (3) public places. The initial hearing proceeded ex-parte inasmuch as nobody appeared to oppose the same. On March 1, 1994, the RTC granted the said petition in a decision, the dispositive portion of which reads:

WHEREFORE, the instant petition is hereby granted and the Register of Deeds for the Province of Cavite is accordingly directed, upon payment of the corresponding fees, to issue another duplicate copies of TCT Nos. T-72537 and T-72538 to petitioner Alex L. David, in lieu of the two (2) lost titles, which are hereby declared null and void and of no further force and effect. The new duplicate titles shall contain all subsisting

encumbrances, if any. [4]

Petitioner Rexlon then filed with the Court of Appeals a petition for annulment of the said Decision of the trial court on the ground that respondent David allegedly employed fraud and deception in securing the replacement owner's duplicate copies of the subject TCTs; that there was absence of due process; and, that the decision of the trial court was tainted with grave abuse of discretion amounting to lack of jurisdiction. The petition was later amended, with leave of court, to include as respondent Paramount Development Corporation of the Philippines (Paramount, for brevity) upon discovering that respondent David had executed on September 20, 1994, a deed of sale of the subject parcels of land in favor of Paramount. As a result of that sale, new certificates of title designated as TCT Nos. T-525664 and T-525665 were issued in the name of respondent Paramount in lieu of TCT Nos. T-72537 and T-72538 in the name of Alex L. David.

On November 19, 1996, public respondent Court of Appeals rendered a decision dismissing the petition of petitioner Rexlon, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the petition is hereby DISMISSED for lack of merit.

SO ORDERED. [5]

In ruling in favor of respondents David and Paramount, the appellate court held as insignificant the contention of petitioner Rexlon that David had misled the trial court in alleging that his owner's duplicate copies of the said TCT Nos. T-72537 and T-72538 were lost. Petitioner claims that it had acquired the titles of ownership over the said properties from respondent David pursuant to a perfected contract of sale between them. Refuting this allegation, the appellate court held that:

Said contention is not impressed with merit. It must be remembered that the decision sought to be annulled concerns the issuance of owner's duplicate copies of TCT Nos. T-75237 and T-75238 of the Register of Deeds of the Province of Cavite. It did not in any manner dwell on the issue of whether or not the alleged deed of sale in favor of petitioner executed by private respondent has any force and effect. Hence, this Court may not determine the rights of any of the parties in this case to the said properties. Any adjudication of rights over the properties in question may only be done by the proper court where the appropriate action may be filed but definitely, not in the present case.

Furthermore, private respondent Alex David appeared to be the registered owner of TCT Nos. T-75237 and T-75238 when said petition was filed. Consequently, pursuant to Section 109 of Presidential Decree No. 1529, he has the personality to file the same.[6]

In regard to petitioner's argument that the jurisdictional requirements set forth in Section 13 of Republic Act No. 26 have not been complied with, the appellate court ruled that:

As private respondent points out, petitioner failed miserably to discern that Republic Act No. 26 has no application to the proceedings commenced below. Said law applies to reconstitution of lost or destroyed transfer certificates of title, which is not what private respondent sought below. Reconstitution presupposes the loss or destruction of the original copies of the certificate of title on file with the Register of Deeds (Cf. Section 110, Presidential Decree No. 1529). In such a case, the procedure prescribed under Republic Act No. 26 would have to be observed. On the other hand, David merely sought the issuance of another owner's duplicate copy of his certificates of title under the provisions of Section 109 of Presidential Decree No. 1529, since he claimed that only his duplicate copy was lost and could not be found, and not the original with Register of Deeds. Said provision prescribes a different set of procedure xxx.

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The aforesaid provision entails a minimum requirement of notice and hearing. In the present case, it appears on

record that a notice of hearing (p. 101, Rollo) has been issued by the court. The Certificate of Posting (p. 102, Rollo) shows that the Deputy Sheriff posted the said notice of hearing in three public places where the properties are located. It appearing that the same were observed, this Court finds that the proceedings below were valid and legal. No fraudulent misrepresentation can be imputed against private respondent in seeking the petition for the issuance of an owner's duplicate of the subject certificate of title.

Besides, a judgment can be annulled only on two (2) grounds: (a) that the judgment is void for want of jurisdiction or for lack of due process of law; or (b) that it has been obtained by fraud (Santos v. Court of Appeals, 224 SCRA 673). For fraud to serve as a basis for the annulment of a judgment, it must be extrinsic or collateral in character, otherwise, there would be no end to litigations (Santos v. Court of Appeals, 224 SCRA 673). Unfortunately, these grounds do not obtain in the instant case.[7]

Hence, this petition based on the following assignment of errors:

I

RESPONDENT COURT MANIFESTLY ERRED IN GRANTING DAVID'S PETITION FOR ISSUANCE OF NEW OWNER'S DUPLICATE CERTIFICATES OF TITLE TO THE PROPERTIES IN HIS NAME.

II

THE ISSUANCE OF NEW OWNER'S DUPLICATE CERTIFICATES OF TITLE TO DAVID WAS DONE WITHOUT ACCORDING DUE PROCESS TO, AND BY PERPETRATING A FRAUD UPON, PETITIONER REXLON.[8]

The petitioner alleges that the Court of Appeals erred in failing to annul the decision of the trial court on the ground of fraud and lack of jurisdiction. Fraud, according to the petitioner, attended the proceedings and eventual issuance of the new owner's duplicate copies of the subject certificates of title; and that respondent David misled the trial court in alleging in his petition before the RTC that his owner's duplicate of TCT Nos. T-52537 and T-52538 were lost when in fact he had delivered the said owner's duplicate of those certificates of title to the petitioner pursuant to a contract of sale executed between them.

The petitioner likewise alleges that it was denied due process in view of certain procedural lapses that attended the proceedings in the trial court. First, it was not served with a specific notice of the hearing of the petition; that it is entitled to said specific notice for the reason that the procedure in Section 23 of Presidential Decree No. 1529 is basically similar to the procedure followed in Section 13 of Republic Act No. 26. Second, the procedure followed in posting the general notice was fatally flawed because of the failure to comply with the three (3) week publication requirement. These procedural infirmities, according to the petitioner, affected the jurisdiction of the trial court in the sense that it deprived the petitioner of its statutory right to oppose the petition and to present evidence in support of its opposition.

In response to the aforementioned allegations of the petitioner, respondents David and Paramount reiterate the findings of the appellate court that the petitioner is not entitled to a specific notice inasmuch as the said notice is not required by Section 23 of P.D. No 1529 upon which respondent David's petition before the trial court is based. They also repeat the appellate court's ruling that the issue of the ownership over the parcels of land and of the validity of the sale is irrelevant in a petition for the issuance of a new owner's duplicate certificate of title. The respondents also threw back the charge of fraud to petitioner Rexlon for the latter's possession of the owner's duplicate copies of the said certificates of title without the knowledge of respondent David.

We rule in favor of the petitioner.

Pursuant to Section 2 of Rule 47 of the 1997 Revised Rules of Civil Procedure, the grounds to annul a judgment

of a lower court are extrinsic fraud and lack of jurisdiction.

We find that the issuance of new owner's duplicate certificates of title by the trial court in favor of respondent David is indeed tainted with extrinsic fraud. Respondent David in his petition before the RTC alleged that:

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- That the Owner's Duplicate of the aforementioned Transfer Certificate of Title No. T-75237 and No. T-75238 were lost when petitioner entrusted said Owner's Duplicate of said titles to a trusted friend and member of his staff for the purpose of showing said certificates of title to a prospective developer who was interested in developing said parcels of land for commercial and/or industrial use. However, while the abovementioned Owner's Duplicate of said titles were in the custody and possession of the prospective developer, the same were misplaced and could not be found despite diligent efforts to locate said titles;

- That said Owner's Duplicate of Transfer Certificate of Title No. T-75237 and No. T-75238 have not been delivered to any person or entity to secure the payment or performance of any obligation whatsoever or used for any illegal or fraudulent transaction.[9]

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However, the document denominated as "Absolute Deed of Sale" where the signature of respondent David as seller has not been controverted, states that the latter has fully received payment for the said sale and has bound himself to cede and deliver to petitioner Rexlon, as vendee, his rights, interest, participation and title over the said parcels of land covered by TCT Nos. T-75237 and T-75238. For emphasis, the said pertinent provision of the said Absolute Deed of Sale is quoted hereunder, to wit:

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants of the parties herein contained and of the sum of PESOS: FIVE HUNDRED THOUSAND ONLY (P500,000.00), Philippine currency, receipt of which is hereby confessed and acknowledged to the total and full satisfaction of the VENDOR, the VENDOR hereby unconditionally and absolutely SELLS, TRANSFERS, CONVEYS, CEDES and DELIVERS unto the VENDEE, its successors and assigns all his rights, interest, participation and title, free from all claims, liens and encumbrance whatsoever. [10]

The claim of respondents David and Paramount that the sale is void for lack of consideration after the petitioner allegedly failed to pay the down payment cannot prevail over the uncontroverted contractual provision in the notarized Deed of Absolute Sale regarding the full payment of the consideration of Five Hundred Thousand (P500,000.00) Pesos made by Paramount, as vendee, to respondent David, as vendor, who explicitly acknowledged receipt thereof on the face of that document. Respondent David was therefore well aware that there was no truth in his allegation in his petition for issuance of new owner's duplicate copies of said certificates of title on the false and fraudulent ground that his owner's duplicate copies of TCT Nos. T-52537 and T-52538 were lost and that they were not delivered to any person to secure the performance of any obligation.

The Court is presented in the case at bar with the issue of whether such misrepresentation or fraud of respondent David can be characterized as extrinsic fraud so as to merit the annulment of the trial court's decision granting respondent David's petition for the issuance of new owner's duplicate certificates of title of TCT Nos. T-52537 and T-52538.

Extrinsic fraud contemplates a situation where a litigant commits acts outside of the trial of the case, "the effect of which prevents a party from having a trial, a real contest, or from presenting all of his case to the court, or where it operates upon matters pertaining, not to the judgment itself, but to the manner in which it was procured so that there is not a fair submission of the controversy." [11] The overriding consideration is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court. Hence, the Court has held that extrinsic

fraud is present in cases where a party (1) is deprived of his interest in land, because of a deliberate misrepresentation that the lots are not contested when in fact they are; (2) applies for and obtains adjudication and registration in the name of a co-owner of land which he knows has not been allotted to him in the partition; (3) intentionally conceals facts and connives with the land inspector, so that the latter would include in the survey plan the bed of a navigable stream; (4) deliberately makes a false statement that there are no other claims; (5) induces another not to oppose an application; (6) deliberately fails to notify the party entitled to notice; or (7) misrepresents the identity of the lot to the true owner, causing the latter to withdraw his opposition. Fraud, in these cases, goes into and affects the jurisdiction of the court; thus, a decision rendered on the basis of such fraud becomes subject to annulment. [12]

In the case of *Strait Times, Inc. v. Court of Appeals*, [13] where this Court was faced with the same facts and issue, therein respondent Peñalosa filed a petition for the issuance of a new owner's duplicate certificate of title. He alleged therein that his copy was lost and was not pledged or otherwise delivered to any person or entity to guarantee any obligation or for any purpose. When the trial court issued a new owner's duplicate title, therein petitioner Strait Times, Inc. filed a petition to annul judgment based on extrinsic fraud and lack of jurisdiction. Strait Times, Inc. claimed that Peñalosa misrepresented before the trial court that the said owner's duplicate copy of the title was lost when in fact it was in the possession of the former pursuant to a contract of sale between Peñalosa and a certain Conrado Callera. Callera later sold the lot represented by the alleged lost title to therein petitioner Strait Times, Inc.

We ruled therein, as we now rule in the case at bar, that extrinsic fraud did not attend the proceedings before the trial court for the reason that:

xxx It is well-settled that the use of forged instruments or perjured testimonies during trial is not an extrinsic fraud, because such evidence does not preclude the participation of any party in the proceedings. While a perjured testimony may prevent a fair and just determination of a case, it does not bar the adverse party from rebutting or opposing the use of such evidence. Furthermore, it should be stressed that extrinsic fraud pertains to an act committed outside of the trial. The alleged fraud in this case was perpetrated during the trial.

Besides, the failure of petitioner to present its case was caused by its own inaction. It was not impleaded as a party to the case before the trial court because it failed to effect the timely registration of its Deed of Sale. Had it done so, it would have been able to oppose the issuance of the new duplicate title, rebut Espinosa's testimony, and prove that it already bought the land in issue. [14]

However, in consonance with the Strait Times case, respondent David's act of misrepresentation, though not constituting extrinsic fraud, is still an evidence of absence of jurisdiction. In the Strait Times case and in *Demetriou v. Court of Appeals*, [15] also on facts analogous to those involved in this case, we held that if an owner's duplicate copy of a certificate of title has not been lost but is in fact in the possession of another person, the reconstituted title is void and the court rendering the decision has not acquired jurisdiction. Consequently, the decision may be attacked any time. [16] In the case at bar, the authenticity and genuineness of the owner's duplicate of TCT Nos. T-52537 and T-52538 in the possession of petitioner Rexlon and the Absolute Deed of Sale in its favor have not been disputed. As there is no proof to support actual loss of the said owner's duplicate copies of said certificates of title, the trial court did not acquire jurisdiction and the new titles issued in replacement thereof are void.

On whether this Court can rule on the validity or nullity of the titles issued in the name of respondent Paramount in the light of the facts of this case, we rule in the affirmative.

Firstly, it must be remembered that, in the amended petition of Rexlon for annulment of judgment, respondent Paramount was impleaded for the reason that the prayer therein sought the nullification of the new titles issued in

the name of respondent Paramount. Inasmuch as a petition for annulment of judgment is classified as an original action that can be filed before the Court of Appeals,[17] the said court can admit, by way of an amendment to the petition, new causes of action intimately related to the resolution of the original petition. Hence, respondent Paramount became a necessary party in the petitioner's original cause of action seeking a declaration of the existence and validity of the owner's duplicate copy of the subject certificate of title in the possession of the latter, and an indispensable party in the action for the declaration of nullity of the titles in the name of respondent Paramount. Indeed, there can be no complete relief that can be accorded as to those already parties, or for a complete determination or settlement of the claim subject of the action,[18] if we do not touch upon the necessary consequence of the nullity of the new duplicate copy of the subject certificate of title. The Rules of Court compels the inclusion of necessary parties when jurisdiction over the person of the said necessary party can be obtained. Non-inclusion of a necessary party when there is an opportunity to include him would mean waiver of the claim against such party.[19]

Secondly, respondent Paramount has duly consented to put in issue the validity of its titles by invoking in this appeal the reasons espoused by the appellate court and respondent David for the dismissal of the petition to annul the decision of the trial court. In its Memorandum and respondent David's comment that it adopted, respondent Paramount has not made any jurisdictional objection as regards its inclusion in the appeal to the petition for annulment of judgment, and even participated in the discussion of the merits of the case. Based on the principle of estoppel, respondent Paramount is barred from raising any objection over the power of this Court to nullify its titles.

Thirdly, in order for a just, speedy and inexpensive disposition of the case, we must decide on the effect of void duplicate copies of a certificate of title that served as a basis for the sale of the property it represents and the eventual issuance of titles in the name of respondent Paramount. To require another proceeding only for the purpose of annulling the said new titles when the same could be decided in this very petition would promote judicial bureaucracy, a practice abhorred by our legal system. As we have ruled in *Gayos v. Gayos* [20], it is a cherished rule of procedure that a court should always strive to settle the entire controversy in a single proceeding leaving no root or branch to bear the seeds of future litigation.

In this case at bar, we simply annulled the decision of the RTC, acting as a land registration court in L.R.C. Record No. 8843, to issue new owner's duplicate copies of TCT Nos. T-52537 and T-52538, for lack of jurisdiction. The dispute between petitioner Rexlon and respondent David regarding ownership over the parcels of land will have to be threshed out or determined in a more appropriate proceeding. In a petition for the issuance of a new owner's duplicate copy of a certificate of title in lieu of one allegedly lost, the RTC, acting only as a land registration court, 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. Possession of a lost owner's duplicate copy of a certificate of title is not necessarily equivalent to ownership of the land covered by it. The certificate of title, by itself, does not vest ownership; it is merely an evidence of title over a particular property. [21]

WHEREFORE, the petition for review is hereby GRANTED, and the assailed Decision of the Court of Appeals dismissing the Petition for Annulment of Judgment is REVERSED and SET ASIDE. The Decision dated March 1, 1994 of the Regional Trial Court of Cavite, Branch 16, in LRC Rec. No. 8843, is ANNULLED; and the new owner's duplicate copies of TCT Nos. T-72537 and T-72538 in the name of Alex L. David issued by virtue of the said Decision of the Regional Trial Court as well as the replacement thereof, namely, TCT Nos. T-525664 and T-525665 in the name of Paramount Development Corporation of the Philippines, are hereby declared VOID. No pronouncement as to costs.

SO ORDERED.

Bellosillo, Acting Chief Justice, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Penned by Associate Justice Celia Lipana-Reyes, and concurred in by Associate Justices Antonio Martinez and Eduardo Montenegro, Sixth Division; Rollo, pp. 22-28.

[2] Rollo, p. 30.

[3] Penned by Judge Arturo de Guia; Rollo, pp. 146-147.

[4] Rollo, p. 147.

[5] Rollo, p. 28.

[6] Rollo, p. 26.

[7] Rollo, p. 26-28.

[8] Rollo, p. 10.

[9] Rollo, p. 34.

[10] Rollo, p. 31.

[11] Strait Times, Inc. v. Court of Appeals, 294 SCRA 714, 721-722 (1998) citing Arcelona v. Court of Appeals, G.R. No. 102900, October 2, 1997; Macabingkil v. People's Homesite and Housing Corporation, 72 SCRA 326, 343-344, (1976).

[12] Id.,p.722-723 citing Azurin v. Quitariano, 81 Phil. 261, 265 (1948); Arceo v. Varela, 89Phil 212, 216 (1951); Republic v. Sioson, 9SCRA 533 (1963); Angelo v. Director of Lands, 49 Phil. 838, 840 (1926); Salva v. Salvador, 18 Phil.193, 197 (1911); Libudan v. Gil, 45 SCRA 17, 27-29, (1971).

[13] 294 SCRA 714 (1998).

[14] Supra, Note 11, p. 723.

[15] 238 SCRA 158 (1994).

[16] Id.,pp. 161-162.

[17] Section 2, Rule 46, Revised Rules of Civil Procedure.

[18] Section 8, Rule 3, Revised Rules of Civil Procedure.

[19] Section 9, Rule 3, Revised Rules of Civil Procedure.

[20] 67 SCRA 146, 151 (1975) citing Marquez. Marquez, 73 Phil 74, 78 (1941); Keramik Industries, Inc. v. Guerrero, 61 SCRA 265 (1974).

[21] Supra, Note 11, Strait Times, Inc. v. Court of Appeals, 294 SCRA 714, p. 726.

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