

BERNABE FOSTER-GALLEGO, PETITIONER, VS. SPOUSES ROMEO AND VIVIEN GALANG, VIVE REALTY CORPORATION, MUNICIPALITY OF PARAÑAQUE, TREASURER OF PARAÑAQUE, REGISTER OF DEEDS OF PARAÑAQUE...*G.R. No. 130228. July 27, 2004*

Ponente: CARPIO, J.

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Before the Court is a petition for review[1] assailing the Decision[2] of 22 July 1997 of the Court of Appeals in CA-G.R. CV No. 43439. The Court of Appeals affirmed with modification the Decision[3] of 8 July 1993 of the Regional Trial Court of Makati, Metro Manila, Branch 148, in Civil Case No. 89-3898. The trial court rendered judgment against Lito Gallego (“Gallego”) and declared Romeo and Vivien Galang (“Spouses Galang”), the owners of the parcel of land subject of this case.

Antecedent Facts

Vive Realty Corporation (“VRC”) acquired several properties at a public auction held by the Municipal Treasurer of Parañaque (“Treasurer”) on 29 October 1982. Among these properties was a parcel of land (“Property”) with an area of 330 square meters located in Barrio Kaybiga, Parañaque, Metro Manila, and covered by TCT No. 435402. The Treasurer executed a Final Bill of Sale[4] over the Property in favor of VRC on 25 November 1983. VRC then filed a petition, docketed as Civil Case No. 5801, to cancel the titles of the properties VRC had purchased during the public auction. In a Decision[5] dated 19 December 1983, the Regional Trial Court of Makati, Branch 138 (“RTC-Branch 138”), ordered the Register of Deeds to cancel 11 transfer certificates of title, including TCT No. 435402, and to issue new titles in the name of VRC.

On 22 June 1984, the Spouses Galang purchased the Property from VRC through a Deed of Absolute Sale.[6] The Register of Deeds later issued TCT No. (86872) 22786 over the Property in the name of the Spouses Galang. The Spouses Galang took possession of the Property and had it declared in their name for taxation purposes. They diligently paid the corresponding real property taxes.

In April 1989, Romeo Galang came home from Saudi Arabia and discovered a hollow block fence along the perimeter of the Property. Gallego built the fence in March 1989. Although the Spouses Galang brought the matter to the Barangay Lupon for possible settlement, Gallego failed to appear at the barangay hall and instead sent his lawyer. On 16 May 1989, the Spouses Galang filed a complaint for Quieting of Title with Damages[7] against Gallego. The case was raffled to the Regional Trial Court of Makati, Branch 146[8] (“RTC-Branch 146”).

In his Answer with Counterclaim, Gallego alleged that his brother, Bernabe Foster-Gallego, owned the Property. Gallego denied that his brother was delinquent in the payment of real property taxes. Gallego asserted that his brother had never received a notice of delinquency or a notice of the public auction of the Property, much less a

copy of RTC-Branch 138's decision cancelling TCT No. 435402. Gallego pointed out that TCT No. 435402 and Tax Declaration No. A-022-00019 clearly indicated his brother's address as No. 15 Tiller Green S.W. Washington D.C., USA. Since his brother is the true and lawful owner of the Property, Gallego argued that the Spouses Galang should not disturb his possession as caretaker of the Property.

As Gallego subsequently failed to appear at the pre-trial conference and to submit his pre-trial brief, RTC-Branch 146 issued an Order^[9] on 16 February 1990 declaring Gallego in default and allowing the Spouses Galang to present their evidence *ex parte*. On 10 March 1990, Gallego filed a motion to lift the order of default and to admit his pre-trial brief. On the same day, Bernabe Foster-Gallego ("petitioner") filed a motion for intervention with an attached answer-in-intervention. RTC-Branch 146 denied Gallego's motion but granted petitioner's motion and admitted the answer-in-intervention.

RTC-Branch 146 set a pre-trial conference between the Spouses Galang and petitioner. However, the pre-trial did not push through because petitioner filed on 2 August 1990 a motion to admit third-party complaint, which RTC-Branch 146 granted. Summonses were issued on third-party defendant VRC, as well on the Municipality (now City), Treasurer, and Register of Deeds of Parañaque. VRC failed to file an answer to the third-party complaint.

The case was subsequently re-raffled to the Regional Trial Court of Makati, Branch 65^[10] ("RTC-Branch 65"). On 4 March 1991, the Spouses Galang started presenting their evidence *ex parte* against Gallego. Petitioner filed a motion to strike out these proceedings and to hold in abeyance the hearing scheduled on 8 April 1991 on the ground that not all the third-party defendants had filed their answers and pre-trial briefs. RTC-Branch 65 denied the motion in an Order dated 6 May 1991.^[11]

Gallego and petitioner jointly filed a petition for certiorari with the Court of Appeals praying to annul the order. The appellate court dismissed the petition for lack of merit. Gallego and petitioner then elevated the matter to this Court, which denied their petition and subsequent motion for reconsideration for lack of reversible error.

The Spouses Galang continued to present their evidence *ex parte* against Gallego on 17 August 1992. On 24 August 1992, they submitted their written offer of evidence and RTC-Branch 65 deemed the case involving the Gallego and the Spouses Galang submitted for decision. RTC-Branch 65 also ordered the Spouses Galang and petitioner to submit their position papers on the procedure to receive further evidence in the case. Both parties complied in September 1992.

In October 1992, petitioner filed a motion to inhibit Judge Abad Santos who granted the motion and inhibited himself. The case was re-raffled to the Regional Trial Court of Makati, Branch 148 ("trial court"). The trial court eventually decided the original case in favor of the Spouses Galang, and denied petitioner's intervention and third-party complaint.

The Ruling of the Trial Court

The dispositive portion of the Decision of 8 July 1993 of the trial court reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against defendant Lito Gallego removing any cloud or quieting of title and ownership over the parcel of land covered by TCT No. (86872) 22786 of the Register of Deeds of Pasay City with an area of 330 square meters more or less situated in Barrio Kaybiga, Parañaque, Metro Manila, declaring them at this point in time as exclusive owner of said land and that said defendant Lito Gallego is hereby ordered to pay plaintiffs moral damages in the amount of P10,000.00; attorney's fees in the amount of P25,000.00 including the appearance fees and P3,000.00 as litigation expenses.

With costs against the defendant Lito Gallego.

SO ORDERED.[12]

Dissatisfied with the trial court's decision, Gallego and the Spouses Galang appealed to the Court of Appeals.

The trial court also set for hearing the issue of whether trial on the merits should proceed on petitioner's intervention and third-party complaint. After hearing the arguments of the parties concerned and receiving their respective memoranda, the trial court issued on 12 October 1993 the following Order:

WHEREFORE, premises considered,

(1) the order admitting the Answer in Intervention by Bernabe Gallego is hereby reconsidered, and the Motion to Admit the same is hereby DENIED, and the Answer in Intervention is hereby stricken off the record.

(2) the third party complaint filed by Bernabe Gallego is hereby denied admission, and if it was already admitted, the admission is hereby reconsidered and said third party complaint is hereby stricken off the records.

SO ORDERED.[13]

Petitioner received the trial court's order on 21 October 1993. Petitioner filed a motion for reconsideration on 5 November 1993, which the trial court denied. Petitioner received a copy of the trial court's denial on 23 January 1995. Petitioner then filed on 26 January 1995 a notice that he was appealing the Order to the Court of Appeals. Instead of filing his own brief, however, petitioner joined in Gallego's appeal.

The Ruling of the Court of Appeals

The Court of Appeals held that petitioner had no legal personality to join Gallego's appeal, thus:

In fact, with the denial of his motion for intervention, intervenor-appellant never became a party to the case. Thus, he had no legal personality to join defendant-appellant in this appeal to impugn the decision of 8 July 1993, much less to use this appeal as a mode to question the orders denying his intervention. Under Section 2, Rule 12 of the Rules of Court, the Rule then prevailing at the time the intervention of intervenor-appellant was denied, any person desiring to intervene shall file a motion for leave of court and that allowance or disallowance of the motion is addressed to the sound discretion of the court. xxx once the court exercises its discretion, the same cannot be reviewed save in instances where such discretion has been so exercised in an arbitrary or capricious manner in which case a petition for certiorari may be pursued. In other words, if intervenor-appellant believes that the lower court gravely abused its discretion in denying his motion for intervention, his proper forum is elsewhere and not in this appeal.

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But even assuming that the questioned orders are final such that they can be the proper subject of appeal, an examination of the records will show that intervenor-appellant's appeal was interposed out of time. The order of 12 October 1993 denying the motion for intervention of intervenor-appellant was received by him on 21 October 1993; hence, pursuant to Section 39 of Batas Pambansa Bilang 129, he only had a period of fifteen (15) days, or until 5 November 1993, within which to perfect an appeal. Intervenor-appellant instead filed a motion for reconsideration on 5 November 1993 but this was denied by the lower court on 26 December 1994, a copy of the order of which was served on him on 23 January 1995. This means that intervenor-appellant had until the next day, 24 January 1995, within which to perfect his appeal considering that he filed his motion for reconsideration on the very last day to appeal. It will be noted, however, that intervenor-appellant failed to beat his deadline as he filed his notice of appeal only on 26 January 1995. This Court therefore has no jurisdiction to review the assailed orders as they already lapsed into finality. xxx

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One last note. Intervenor-appellant is not without any remedy with the denial of his motion for intervention. Whatever right or interest he may have over the subject property will not in any way be affected by the judgment rendered against defendant-appellant. If indeed there were some irregularities in the sale at public auction of the property and in the cancellation of his title, intervenor-appellant may still avail of the proper remedies under the rules.[14]

The Court of Appeals also affirmed the decision of the trial court but deleted the award of damages to the Spouses Galang for lack of basis, as follows:

WHEREFORE, premises considered, the 8 July 1993 decision appealed from is hereby AFFIRMED, with MODIFICATION that the award in favor of plaintiffs-appellants for moral damages, attorney's fees and litigation expenses is DELETED.

SO ORDERED.[15]

Gallego and the Spouses Galang did not appeal the appellate court's Decision of 22 July 1997. However, petitioner filed before this Court a petition for review on certiorari assailing the Decision.

The Issues

Petitioner contends that:

- THE COURT OF APPEALS SERIOUSLY ERRED IN NOT SETTING ASIDE THE ORDER DATED OCTOBER 12, 1993 AND THE ORDER DATED DECEMBER 26, 1994 AS WELL AS THE DECISION DATED JULY 8, 1993 AND IN NOT RENDERING A DECISION RULING THAT:
- THE TRIAL COURT ERRED IN RECONSIDERING THE ORDER DATED APRIL 16, 1990 xxx;
- THE TRIAL COURT GRAVELY ERRED IN REASONING THAT THE DEFAULT ORDER AGAINST GALLEGO PRECLUDED THE ADMISSION OF THE VERIFIED ANSWER-IN-INTERVENTION AND THE VERIFIED THIRD-PARTY COMPLAINT OF PETITIONER WHICH HAVE IPSO FACTO AND EFFECTIVELY ADMITTED OR INSTALLED PETITIONER AS DEFENDANT OR BECAME THE MAIN DEFENDANT AND INDISPENSABLE PARTY OF THE CASE;
- THE TRIAL COURT GRAVELY ERRED IN RULING THAT THE INTERVENTION OF PETITIONER IS MERELY ANCILLARY TO THE MAIN ACTION xxx;
- THE TRIAL COURT GRAVELY ERRED IN NOT CONCLUDING THAT THE NOTICE OF AUCTION SALE AND ITS PUBLICATION, THE CERTIFICATE OF SALE, AND THE FINAL BILL OF SALE INVOLVED ARE ALL VOID AB INITIO AND DID NOT AFFECT THE EFFECTIVE AND STANDING VALIDITY AND EXISTENCE OF TCT NO. 435402 xxx;
- THE TRIAL COURT GRAVELY ERRED IN NOT DECIDING THAT xxx CIVIL CASE NO. 5801 OF THE RTC, BRANCH 138, MAKATI, AND THE PROCEEDINGS AND DECISION DATED DECEMBER 19, 1993[16] THEREUNDER ARE VOID;
- THE TRIAL COURT COMMITTED A SERIOUS ERROR IN NOT DECIDING THAT EVEN ASSUMING THAT THE AUCTION PROCEEDINGS WERE VALID, PETITIONER IN EFFECT HAD REDEEMED HIS PROPERTY WHICH WAS ALLEGEDLY AUCTIONED, WITHIN THE REDEMPTION PERIOD OF ONE (1) YEAR BASED ON UNDISPUTED FACTS ON RECORD;
- THE TRIAL COURT COMMITTED A SERIOUS MISTAKE IN NOT DECIDING THAT THE DOCTRINE OF AN INNOCENT PURCHASER FOR VALUE IS NOT APPLICABLE IN THIS CASE,

BECAUSE THE SPOUSES GALANG PURCHASED NOTHING FROM VIVE REALTY CORPORATION WHOSE TITLE IS VOID AB INITIO AND THEREFORE HAD NOTHING TO SELL;

- THE TRIAL COURT SERIOUSLY ERRED IN NOT RULING THAT TCT NO. 86872 (22786) IN THE NAME OF THE SPOUSES GALANG IS VOID AB INITIO AND PETITIONER'S TCT NO. 435402 WHICH REMAINS UNCANCELLED IN THE NAME OF PETITIONER AND IN HIS POSSESSION, IS STILL LEGALLY EXISTING AND VALID;

- THE TRIAL COURT GRAVELY ERRED IN NOT RULING THAT THE ANSWER-IN-INTERVENTION IS A DIRECT ATTACK, NOT COLLATERAL, ON THE TITLE OF SPOUSES GALANG;

- THE COURT OF APPEALS SERIOUSLY ERRED IN CONCLUDING THAT IT CANNOT REVIEW THE ORDER DATED OCTOBER 12, 1993 AND THE ORDER DATED DECEMBER 26, 1994;

- THE COURT OF APPEALS SERIOUSLY ERRED IN RULING THAT PETITIONER FILED HIS NOTICE OF APPEAL LATE; BUT EVEN ASSUMING IT TO BE SO, THE ONE-DAY[17] TARDINESS IS EXCUSABLE AND STRICTLY TECHNICAL TO DEFEAT PETITIONER'S PROPERTY RIGHT OF WHICH HE IS BEING DEPRIVED WITHOUT DUE PROCESS OF LAW; and

- THE COURT OF APPEALS COMMITTED A SERIOUS ERROR IN THAT, ASSUMING PETITIONER HAD NO PERSONALITY TO JOIN THE APPEAL OF GALLEGO AND THAT THE ORDERS DATED OCTOBER 12, 1993 AND DATED DECEMBER 26, 1993 RESPECTIVELY ARE INTERLOCUTORY, PETITIONER HAS STILL A REMEDY TO FILE HIS OWN ACTION TO ANNUL TCT NO. (86872) 22786 IN THE NAMES OF THE SPOUSES GALANG.[18]

The original parties to this case chose not to appeal the Court of Appeals' Decision of 22 July 1997. The ruling of this Court thus pertains to petitioner only. We will not delve into the issues between the Spouses Galang and Gallego.

In sum, the issues of this case are: (1) whether the Court of Appeals erred in dismissing petitioner's appeal from the trial court's orders disallowing petitioner's intervention; (2) whether RTC-Branch 138's Decision of 19 December 1983 can be declared void in an action for quieting of title; and (3) whether petitioner is an indispensable party to the action for quieting of title.

The Ruling of the Court

The Court of Appeals Did Not Err in Dismissing Petitioner's Appeal

True, this Court has on occasion held that an order denying a motion for intervention is appealable.[19] Where the lower court's denial of a motion for intervention amounts to a final order, an appeal is the proper remedy,[20] as when the denial leaves the intervenor without further remedy or resort to judicial relief.

However, the issue of whether petitioner correctly appealed the assailed orders of the trial court to the Court of Appeals is beside the point since petitioner did not interpose his own appeal. Petitioner merely joined Gallego's appeal from the trial court's decision.

A prospective intervenor's right to appeal applies only to the denial of his intervention.[21] Not being a party to the case, a person whose intervention the court denied has no standing to question the decision of the court.[22] Petitioner thus had no legal personality to join Gallego in assailing the decision of the trial court. Petitioner could question only the trial court's orders denying his intervention and striking off from the records his answer-in-intervention, not the decision itself.

Moreover, petitioner filed his notice of appeal out of time. The Court of Appeals ruled that:

xxx The order of 12 October 1993 denying the motion for intervention of intervenor-appellant was received by him on 21 October 1993; hence, pursuant to Section 39 of Batas Pambansa Bilang 129, he only had a period of fifteen (15) days, or until 5 November 1993, within which to perfect an appeal. Intervenor-appellant instead filed a motion for reconsideration on 5 November 1993 but this was denied by the lower court on 26 December 1994, a copy of the order of which was served on him on 23 January 1995. This means that intervenor-appellant had until the next day, 24 January 1995, within which to perfect his appeal considering that he filed his motion for reconsideration on the very last day to appeal. It will be noted, however, that intervenor-appellant failed to beat his deadline as he filed his notice of appeal only on 26 January 1995.[23]

Petitioner disputes the appellate court's findings. Petitioner claims that he filed his motion for reconsideration on 3 November 1993, and not on 5 November. The deadline for his appeal was on 25 January 1995 and not on 24 January 1995. Petitioner concedes that he filed his appeal a day late on 26 January 1993, but argues that this brief delay is strictly technical.

The records show that petitioner filed with the trial court his motion for reconsideration by registered mail on 3 November 1993,[24] and not on 5 November. However, as petitioner himself admits, he still filed his appeal a day beyond the 25 January 1993 deadline.

An appeal from a court's judgment or final order is a statutory right, subject to the law and the rules of procedure. The perfection of an appeal within the statutory or reglementary period is not only mandatory but also jurisdictional.[25] Failure to interpose a timely appeal renders the assailed decision final and executory, and deprives the appellate court of jurisdiction to alter the final judgment or to entertain the appeal.[26]

Petitioner lost his right to appeal when he exceeded the fifteen-day period[27] granted by law. Petitioner filed his motion for reconsideration on the thirteenth day of his fifteen-day period to appeal. The filing of a motion for reconsideration merely suspends the running of the period to appeal.[28] Once the court denies the motion, the aggrieved party has only the remaining period from receipt of the order of denial to file his appeal.[29] Petitioner thus had only two days from his receipt on 23 January 1995 of the trial court's order denying the reconsideration, or up to 25 January 1995, to perfect his appeal to the Court of Appeals. Petitioner's failure to interpose his appeal on time rendered the assailed orders of the trial court final.

Petitioner argues that his tardiness of one day is excusable, and cannot defeat his property rights. Petitioner does not, however, offer any valid justification for the late filing of his appeal. Petitioner merely cites the lame excuse that his counsel's assistant attorney must have mistaken the handwritten received date of "1/23/95" on counsel's copy of the trial court's order denying petitioner's motion for reconsideration as "1/25/95".[30] Although the Court, under exceptional circumstances, has allowed late appeals in the interest of justice and equity, this only applies to highly meritorious cases to prevent a grave injustice.[31] That is not the case here.

The allowance or disallowance of a motion to intervene is addressed to the sound discretion of the court hearing the case.[32] This discretion, once exercised, is not reviewable by certiorari or mandamus save in instances where such discretion is exercised in an arbitrary or capricious manner.[33] Petitioner has not shown that the trial court acted capriciously or arbitrarily. That the trial court initially allowed petitioner to intervene but subsequently reconsidered and withdrew its permission does not prove, by itself, that the trial court acted in a manner warranting review. This is certainly not the first time a trial court initially allowed a motion for intervention and later reconsidered and denied it.[34]

The trial court had a valid reason to deny petitioner's intervention. An intervention is ordinarily not permitted if the prospective intervenor's rights can be fully protected in a separate proceeding.[35] In this case, even if the

trial court allowed it, petitioner's intervention in the action for quieting of title would have been futile.

Reliefs Sought by Petitioner are Not Available in an Action to Quiet Title

It is evident from most of the issues raised and the reliefs prayed for that petitioner's principal aim is to overturn the 19 December 1983 Decision of RTC-Branch 138 ("RTC-Branch 138 Decision") cancelling his title. Petitioner seeks to set aside the RTC-Branch 138 Decision, to uphold the validity of his title, and to annul the title held by the Spouses Galang. To this end, petitioner impleaded VRC, and the Municipality (now City), Treasurer and Register of Deeds of Parañaque in a third-party complaint, alleging that these parties committed fraud and deprived petitioner of due process.

However, these issues – whether fraud tainted the proceedings before RTC-Branch 138, whether the Treasurer of Parañaque notified petitioner of the public auction of the Property, and whether there was denial of petitioner's right to due process – cannot be resolved in a proceeding for quieting of title. The only issue in an action to quiet title is whether there is a cloud on a title to real property because of any instrument, record, claim, encumbrance or proceeding that has a prima facie appearance of validity.[36]

The issues petitioner raised would also necessarily require the trial court to review the decision of another regional trial court. This is plainly beyond the powers of the trial court. Under the doctrine of non-interference, a trial court has no authority to interfere with the proceedings of a court of equal jurisdiction,[37] much less to annul the final judgment of a co-equal court.[38] The Court held in *Metropolitan Bank & Trust Co. v. Alejo*[39] that an action for quieting of title is not the appropriate remedy where the action would require the court hearing it to modify or interfere with the judgment or order of another co-equal court.

Even if it wanted to, the trial court could not declare the RTC-Branch 138 Decision void, since that would be tantamount to annulling the decision of a co-equal court. The jurisdiction to annul the judgment of a regional trial court lies with the Court of Appeals,[40] and not with another regional trial court. The trial court also did not err when it recognized the auction sale of the Property, which RTC-Branch 138 had already upheld.

The instant petition must also fail because it anchors petitioner's claim on a cancelled certificate of title. Petitioner's cancelled title cannot cast a cloud on the current title the Spouses Galang now hold. On 19 December 1983, RTC-Branch 138 cancelled TCT No. 435402 in its decision in Civil Case No. 5801. With the lapse of more than two decades, RTC-Branch 138's Decision has long gained finality by operation of law. A judgment becomes final upon the lapse of the reglementary period to appeal if no appeal is perfected.[41] Being final, the RTC-Branch 138 Decision is no longer subject to review by appeal.

What petitioner is barred from directly appealing, however, he seeks to overturn through an appeal from another case heard by a different trial court. Obviously, petitioner cannot do this. When a judgment of a lower court becomes final and executory, it is no longer reviewable, directly or indirectly, by a higher court, not even by the Supreme Court.[42]

Moreover, as correctly pointed out by the Court of Appeals, a certificate of title is not subject to collateral attack. An attack is collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident in the action.[43] Under the Property Registration Decree, titles issued under the Torrens system can only be altered, modified or cancelled in direct proceedings in accordance with the law.[44]

In this case, petitioner raised the alleged nullity of TCT No. (86872) 22786 in his answer-in-intervention to the suit the Spouses Galang filed to quiet title. The petitioners in *Villanueva v. Court of Appeals*[45] also raised the supposed invalidity of respondents' titles in their answer to respondents' complaint for recovery of ownership.

The Court disallowed the defense on the ground that it was a collateral attack on respondents' title, that is, an indirect challenge to the final judgment and decree of registration that resulted in the issuance of the assailed title. In Villanueva, the Court declared that Section 48 of the Property Registration Decree required no less than a direct action for reconveyance filed within the period provided by law.[46]

Petitioner argues that these rules do not apply to him. Citing *Ferrer v. Bautista*,[47] petitioner alleges that the Spouses Galang's title is void ab initio because it originated from the allegedly void title issued to VRC. The Court held in *Ferrer* that a void title is susceptible to direct and collateral attack.[48]

Ferrer does not apply to the case at bar. The void title referred to in *Ferrer* was based on a free patent issued by the Director of Lands over alluvial property. The patent nullity of the assailed title in *Ferrer* arose, not from fraud or deceit, but from the fact that the Bureau of Lands had no jurisdiction over land that had passed to private ownership.[49]

In this case, the trial court ordered the cancellation of petitioner's title and the issuance of a new title to VRC. The trial court's decision has long attained finality. Regional trial courts exercise exclusive original jurisdiction over all civil actions involving title to real property.[50] The law authorizes regional trial courts, acting as land registration courts, to order the cancellation and issuance of certificates of title.[51]

Unlike in *Ferrer*, there is also insufficient evidence in the records to verify at this time petitioner's allegations that RTC-Branch 138, the City Treasurer and Register of Deeds of Parañaque failed to observe the legal requirements of notice and due process on tax sales of real property. Worse, petitioner anchors many of his arguments assailing the public auction of the Property on the outmoded Assessment Law of 1939.[52] Presidential Decree No. 464 had long superseded the Assessment Law, which was no longer the applicable law when the tax sale of the Property took place in 1982.[53]

Petitioner's allegations are better ventilated in a full-blown trial, and not in an action for quieting of title, which operates under the rules on declaratory relief. Petitioner's charge that the proceedings and decision of RTC-Branch 138 were void because of alleged due process violations cannot be resolved in a suit to quiet title. The issue of whether a title was procured by falsification or fraud should be raised in an action expressly instituted for the purpose.[54]

Petitioner is Not an Indispensable Party to the Action for Quieting of Title

An indispensable party is a party who has such an interest in the controversy or subject matter that a final adjudication cannot be made, in his absence, without injuring or affecting that interest.[55] A person is not an indispensable party if his interest in the controversy or subject matter is separable from the interest of the other parties, so that he will not necessarily be injuriously affected by a decree that does complete justice between the other parties.[56] He is also not indispensable if his presence would merely permit complete relief between him and those already parties to the action or will simply avoid multiple litigations.[57]

Petitioner, whose title RTC-Branch 138 cancelled, is not an indispensable party to the action for quieting of title. The assailed decision quieting title in favor of the Spouses Galang has no appreciable effect on petitioner's title. Petitioner's title could still be cancelled with or without the trial court's declaration that the Spouses Galang are the owners of the Property "at this time." [58]

Further, the assailed decision does not bind petitioner. The rules on quieting of title [59] expressly provide that any declaration in a suit to quiet title shall not prejudice persons who are not parties to the action. Given that the trial court denied petitioner's intervention and struck it off from the records, petitioner is not a party to the instant

case. Suits to quiet title are actions quasi in rem, and the judgment in such proceedings is conclusive only between the parties to the action.[60]

There is also no legal basis for petitioner's argument that the order declaring Gallego in default rendered petitioner the ipso facto defendant of this case. Petitioner could have but did not move to substitute Gallego during the proceedings before the court a quo.

On a final note, the Court fully agrees with the Court of Appeals that petitioner is not without other remedy. Assuming petitioner can prove his allegations, petitioner is at the least entitled to recover damages from the parties that defrauded or deprived him of due process.

WHEREFORE, we DENY the instant petition and AFFIRM the Decision of 22 July 1997 of the Court of Appeals in CA-G.R. CV No. 43439.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Romeo A. Brawner with Associate Justices Antonio M. Martinez and Lourdes K. Tayao-Jaguros concurring.

[3] Penned by Judge Oscar B. Pimentel.

[4] Exhibit "F," Records, p. 365.

[5] Exhibit "F-1," Records, p. 367.

[6] Rollo, p. 87.

[7] Records, p. 1.

[8] Presided by Judge Salvador S. Tensuan.

[9] Records, p. 70.

[10] Presided by Judge Salvador S. Abad Santos.

[11] Records, p. 284.

[12] Rollo, p. 188.

[13] Records, p. 556.

[14] Rollo, p. 68.

[15] Ibid.

[16] This is erroneous. The decision referred to was promulgated on 19 December 1983, not in 1993. See Exhibit "F-1," Records, p. 367.

[17] According to the Court of Appeals, petitioner's appeal was due on 24 January 1995 but was filed on 26 January 1996, or two days later.

[18] Rollo, p. 11.

[19] *Saw v. Court of Appeals*, G.R. No. 90580, 8 April 1991, 195 SCRA 740; *Macias v. Vito Cruz*, 151 Phil. 191 (1973); *Ortiz v. Trent*, 13 Phil. 130 (1909).

[20] *Macias v. Vito Cruz*, *supra*; *Ortiz v. Trent*, *supra*.

[21] *Saw v. Court of Appeals*, *supra* note 19.

[22] *Ibid*.

[23] *Supra* note 14.

[24] *Records*, p. 576.

[25] *Zacate v. COMELEC*, G.R. No. 144678, 1 March 2001, 353 SCRA 44; *Barangay 24 of Legazpi City v. Imperial*, G.R. No. 140321, 24 August 2000, 338 SCRA 694.

[26] *Ibid*.

[27] Section 39 of *Batas Pambansa Blg. 129*; Section 19(a) of the Resolution of the Court En Banc dated 11 January 1983.

[28] *Refugia v. Court of Appeals*, 327 Phil. 982 (1996).

[29] The period in Section 3 of Rule 41 applies in ordinary appeals from decisions of the Regional Trial Courts in the exercise of their original jurisdiction.

[30] *Rollo*, p. 11.

[31] *Sublay v. NLRC*, 381 Phil. 198 (2000).

[32] Section 2, Rule 12 of the Rules of Court prevailing at the time this action commenced.

[33] *San Miguel Corporation v. Sandiganbayan*, G.R. Nos. 104637-38, 14 September 2000, 340 SCRA 289, citing *Big Country Ranch Corp. v. Court of Appeals*, G.R. No. 102927, 12 October 1993, 227 SCRA 161.

[34] See *Laureano v. Bormaheco, Inc.*, G.R. No. 137619, 6 February 2001, 351 SCRA 270.

[35] *Ortega v. Court of Appeals*, 359 Phil. 126 (1998) citing *J. FERIA*, 1997 Rules of Civil Procedure (1997).

[36] Art. 476 of the Civil Code provides:

Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

[37] *PDCP Development Bank v. Vestil*, 332 Phil. 507 (1996).

[38] *Nery v. Leyson*, G.R. No. 139306, 29 August 2000, 339 SCRA 232.

[39] 417 Phil. 303 (2001).

[40] *Nery v. Leyson*, *supra* note 38.

[41] *City of Manila v. Court of Appeals*, G.R. No. 100626, 29 November 1991, 204 SCRA 362.

[42] *Ginete v. Court of Appeals*, 357 Phil. 36 (1998); *Johnson & Johnson (Phils.) v. Court of Appeals*, G.R. No. 102692, 23 September 1996, 262 SCRA 298.

[43] *Mallilin, Jr. v. Castillo*, 389 Phil. 153 (2000).

[44] Sec. 48 of Presidential Decree No. 1529 (“Property Registration Decree”) provides:

SEC. 48. Certificate not subject to collateral attack. – A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law.

See also *Mistica v. Spouses Naguiat*, G.R. No. 137909, 11 December 2003; *Tan v. Philippine Banking Corporation*, G.R. No. 137739, 26 March 2001, 355 SCRA 292.

[45] G.R. No. 117971, 1 February 2001, 351 SCRA 12.

[46] *Ibid.*

[47] G.R. No. 46963, 14 March 1994, 231 SCRA 257.

[48] *Ibid.*

[49] *Ibid.*

[50] Section 19, paragraph 2 of B.P. Blg. 129.

[51] Presidential Decree No. 1529, as amended; Act No. 496 (“Land Registration Act”), as amended.

[52] Commonwealth Act No. 470 (“Assessment Law”) was passed on 16 June 1939.

[53] The applicable law at the time the Property was auctioned in 1982 was Presidential Decree No. 464 (“Real Property Tax Code”).

[54] *Lagrosa v. Court of Appeals*, 371 Phil. 225 (1999).

[55] *Metropolitan Bank & Trust Co. v. Alejo*, *supra* note 39.

[56] *Ibid.*

[57] *BA Finance Corporation v. CA*, 327 Phil. 716 (1996).

[58] *Supra* note 12.

[59] Rule 64 of the Rules of Court (now Rule 63 of the 1997 Rules of Civil Procedure) states:

SEC. 2. Parties. – All persons who have or claim any interest which would be affected by the declaration shall be made parties; and no declaration shall, except as otherwise provided in these Rules, prejudice the rights of persons not parties to the action. (Emphasis supplied)

[60] *Realty Sales Enterprise, Inc. v. Intermediate Appellate Court*, G.R. No. L-67451, 28 September 1987, 154 SCRA 328.

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