

ESTATE OF SALVADOR SERRA SERRA (SPEC. PROC. NO. 242) AND ESTATE OF GREGORIO SERRA SERRA (SPEC. PROC. NO. 240), BOTH REPRESENTED BY THE JUDICIAL CO-ADMINISTRATOR LUIS ISASI, MARG...

G.R. NO. 142913. August 09, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition for review on certiorari under Rule 45 of the 1997 Revised Rules of Civil Procedure assails the March 3, 2000 decision of the Court of Appeals in CA-G.R. SP No. 52817, and its April 17, 2000 resolution denying reconsideration thereof.

The factual antecedents are as follows:

On December 27, 1967, a petition for reconstitution of alleged lost original certificates of title (OCT) and owner's duplicate copies in the name of Eleuterio Hernaez covering Lot No. 1316 of Kabankalan Cadastre and Lot Nos. 2685 and 717 of Ilog Cadastre, in the Province of Negros Occidental, was filed by his successors-in-interest Primitivo, Rogaciana and Luisa, all surnamed Hernaez (Hernaez) with then Court of First Instance (CFI) of Bacolod City.

On April 6, 1968, the CFI granted the petition and ordered the reconstitution of the subject OCTs and its duplicate copies.[1] Accordingly, the Register of Deeds of Negros Occidental issued reconstituted OCT Nos. RO-10173, RO-10174, and RO-10175, for Lot Nos. 1316, 2685, and 717, respectively. These reconstituted OCTs were cancelled on May 29, 1969 upon presentation by Hernaez of a "declaration of heirship" and in lieu thereof, Transfer Certificate of Title (TCT) Nos. T-51546, T-51547, and T-51548 were issued in their names.

Upon learning of the existence of the above TCTs, Salvador Serra Serra, for and in behalf of his co-heirs, registered their adverse claim and moved for the cancellation of the reconstituted titles. They averred that they are holders of valid and existing certificates of title over the subject properties and have been in continuous and actual possession thereof.

The trial court denied petitioners' motion to cancel the reconstituted titles and granted instead Hernaez' prayer that they be placed in possession of the subject properties, which petitioners challenged before the Court of Appeals in a petition for certiorari docketed as CA-G.R. No. SP-00139.[2]

On June 7, 1971, the appellate court issued a writ of preliminary injunction[3] which was ordered lifted in a resolution dated August 3, 1971. Petitioners' motion for reconsideration was denied, hence they filed before this Court a petition for certiorari, prohibition and mandamus, docketed as G.R. No. L-34080 and consolidated with G.R. No. L-34693,[4] seeking to annul the resolution lifting the writ of preliminary injunction.

On March 22, 1991, this Court rendered judgment the decretal portion of which reads:

ACCORDINGLY, the petitions are GRANTED. The questioned order of the respondent Court of Appeals lifting the writ of preliminary injunction is SET ASIDE. The writ of possession issued in Cadastral Case No. 17, GLRO Records No. 163 is declared NULL and VOID. The records of this case and of CA-G.R. No. 00139 are remanded to the trial court for hearing of the motion for cancellation of the reconstituted titles. Private respondents are ordered to return to petitioners the possession of the properties in question. The temporary restraining order issued by this Court on February 15, 1972, enjoining private respondents from interfering in any manner, with petitioners' right of possession of the properties in question, shall remain effective until the issue of ownership and/or possession of the properties is finally settled by a competent court.

SO ORDERED.[5]

Pursuant thereto, the trial court heard petitioners' motion for cancellation of certificates of title and on November 25, 1998, rendered judgment the dispositive portion of which reads:

WHEREFORE, based on the foregoing premises and considerations, the court hereby renders judgment in favor of the oppositors and hereby orders the following:

- 1) The petition filed by movants Serra Serra dated November 4, 1968 is hereby DISMISSED for lack of merit;
- 2) Declaring the Transfer Certificate of Title No. T-27644 covering Lot No. 1316, Kabankalan Cadastre and Lot No. 2685, Ilog Cadastre, Transfer Certificate of Title No. T-22344 covering Lot No. 717-A, and Transfer Certificate of Title No. T-22351, Ilog Cadastre, all issued in the name of movants Serra Serra NULL and VOID for being issued to foreigners;
- 3) Declaring the oppositors Hernaez as owners of Lot No. 1316, Kabankalan Cadastre, covered by Transfer Certificate of Title No. 51546; Lot No. 2685, Ilog Cadastre, covered by Transfer Certificate of Title No. T-51547; and Lot No. 717, Ilog Cadastre, covered by Transfer Certificate of Title No. T-51548; and
- 4) Ordering the movants Serra Serra to return possession of said lots to the oppositors Hernaez.

SO ORDERED.[6]

Without filing a motion for reconsideration, petitioners assailed the lower court's decision before the Court of Appeals via a petition for certiorari. On March 3, 2000, the appellate court rendered the herein assailed judgment which dismissed the petition for lack of merit, pertinent portion of which reads:

In the case at bench, We find no cogent reason to disturb the assailed decision denying petitioners' motion for cancellation of the reconstituted titles, especially after the court a quo found that the evidence presented is sufficient and proper to uphold the reconstituted certificates of title in question. A perusal of the assailed order shows that the trial court correctly applied the established legal principle that in cases of annulment and/or reconveyance of title, a party seeking it should establish not merely by a preponderance of evidence but by clear and convincing evidence that the land sought to be reconveyed is his.

Petitioners (Serra Serra), however, as noted by the court a quo in its Order dated November 25, 1998, failed to present in court as evidence the original certificates of title of the aforementioned lots, Lot No. 1316, Lot No. 2685 and Lot No. 717. Petitioners were also found to be of Spanish citizenship and, hence, as aliens, disqualified to acquire lands in the Philippines under the 1935 Constitution.[7]

Petitioners' motion for reconsideration was subsequently denied, hence the instant petition based on the following assigned errors:

I

THE COURT OF APPEALS HAS ... DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AS TO CALL FOR THE EXERCISE OF THE POWER OF SUPERVISION BY

THIS HONORABLE COURT, IN THAT:

THE RULE THAT THE PETITIONER SHOULD HAVE PREVIOUSLY FILED A MOTION FOR RECONSIDERATION WITH THE LOWER COURT BEFORE HE MAY AVAIL HIMSELF OF THE WRIT OF CERTIORARI UNDER RULE 65 OF THE RULES OF COURT IS SUBJECT TO WELL-SETTLED EXCEPTIONS ...

...

II

THE COURT OF APPEALS ... HAS DECIDED A QUESTION OF SUBSTANCE IN A WAY PROBABLY NOT IN ACCORD WITH LAW, REPUBLIC ACT NO. 26, OR WITH THE APPLICABLE DECISION OF THIS HONORABLE COURT IN SERRA VS. COURT OF APPEALS, G.R. NO. L-34080, MARCH 22, 1991.[8]

Petitioners assail the dismissal of their petition on the ground that they failed to file a motion for reconsideration with the lower court before filing a petition for certiorari before the Court of Appeals. While admitting procedural lapse on their part, they argue that the rule is subject to well-settled exceptions, such as, when the questions raised before the Supreme Court are the same as those which have been squarely raised and passed upon by the trial court, or when the petitioner has been deprived of due process of law, or when the writ is urgent under the circumstances.[9]

The petition is denied. Other than citing general exceptions to the rule requiring a motion for reconsideration as a pre-condition to instituting a petition for certiorari, the petitioners did not offer valid reason why their particular case fall under any of the specified exceptions.

The settled rule is that a motion for reconsideration is a sine qua non condition for the filing of a petition for certiorari. The purpose is to grant an opportunity to public respondent to correct any actual or perceived error attributed to it by the re-examination of the legal and factual circumstances of the case.[10] Petitioners' failure to file a motion for reconsideration deprived the trial court of the opportunity to rectify an error unwittingly committed or to vindicate itself of an act unfairly imputed. Besides, a motion for reconsideration under the present circumstances is the plain, speedy and adequate remedy to the adverse judgment of the trial court.

Granting arguendo that certiorari is the proper remedy, the Court of Appeals nevertheless did not err in dismissing the petition.

Both the trial court and the Court of Appeals found that petitioners are Spanish citizens and as such, disqualified from acquiring lands in the Philippines. As a rule, only a Filipino citizen can acquire private lands in the Philippines and the only instances when a foreigner can own private lands are by hereditary succession and if he was formerly a natural-born Filipino citizen who lost his Philippine citizenship. The records are bereft of any showing that petitioners derived their title by any mode which would qualify them to acquire private lands in the country. Petitioners' bare allegation that they acquired the subject lots from Salvador Serra Serra has no probative value lacking sufficient proof that the latter is not disqualified to own or hold private property and was able to legally transmit to petitioners title thereto.

Petitioners' alleged possession of TCTs and actual possession of the subject lands, although strong proof of ownership, are not necessarily conclusive where the assertion of proprietary rights is founded on dubious claim of ownership. They claimed that their title over the subject properties emanated from Salvador Serra Serra; yet they failed to present in evidence the OCT in the name of the latter. Since petitioners impugn the proprietary claim of

Hernaez over the properties, the burden rests on them to establish their superior right over the latter. To recall, the trial court found that the evidence they presented have not established superior proprietary rights over the respondents' on the subject lots. It held that the non-presentation of the OCTs cast doubt on the veracity of their claim. He who asserts must prove.

It is also undisputed that petitioners are all Spanish citizens. Under Philippine law, foreigners can acquire private lands only by hereditary succession or when they were formerly natural-born Filipinos who lost their Philippine citizenship. In this case, petitioners did not present proof that they acquired the properties by inheritance. Neither did they claim to be former natural-born Filipinos. On the contrary, they declare in this petition that they are all Spanish citizens residing in Mallorca, Spain.

It is axiomatic that factual findings of trial courts, when adopted and confirmed by the Court of Appeals, are binding and conclusive and will not be disturbed on appeal. This Court is not a trier of facts. It is not its function to examine and determine the weight of the evidence supporting the assailed decision. Moreover, well entrenched is the prevailing jurisprudence that only errors of law and not of facts are reviewable by this Court in a petition for review on certiorari under Rule 45 of the Revised Rules of Court, which applies with greater force to the petition under consideration because the factual findings of the Court of Appeals are in full agreement with what the trial court found.[11]

WHEREFORE, the petition is DENIED. The March 3, 2000 decision and the April 17, 2000 resolution of the Court of Appeals in CA-G.R. SP No. 52817 are AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Carpio, and Azcuna, JJ., concur.

[1] RTC Records, Vol. I, pp. 20-21.

[2] Rollo, p. 135.

[3] RTC Records, Vol. I, p. 201.

[4] G.R. No. L-34693 sought "to annul and set aside the Orders of the respondent Judge Nestor B. Alampay, issued on November 29, 1971 and December 29, 1971, in Civil Case No. 10040 of the Court of First Instance of Negros Occidental entitled "Salvador Serra Serra, et al. v. Felipe Garaygay, et al." The Order of November 29, 1971 dissolved the writ of preliminary injunction previously issued by Executive Judge Cesar Kintanar enjoining private respondent SONEDCO from issuing and delivering sugar quedans to private respondent Felipe Garaygay, while the Order of December 29, 1971 directed the issuance of the writ of preliminary injunction enjoining petitioners from harvesting, hauling and selling sugar canes from Lot Nos. 717 and 2685 "Ilog Cadastre" and Lot No. 1316 "Kabankalan Cadastre." ...". Rollo, pp. 132-133.

[5] RTC Records, Vol. I, p. 518.

[6] Decision penned by Judge Jose Y. Aguirre, RTC-Himamaylan, Negros Occidental, Branch 56; Rollo, pp. 174-175.

[7] Decision penned by Associate Justice Martin S. Villarama, Jr. and concurred in by Associate Justices (now Associate Justices of the Supreme Court) Cancio C. Garcia and Romeo J. Callejo, Sr.; Rollo, p. 51.

[8] Rollo, pp. 21-22 & 25.

[9] Id. at 21-22.

[10] Interiorient Maritime Enterprises, Inc. v. NLRC, 330 Phil. 493, 503 (1996).

[11] Blanco v. Quasha, 376 Phil. 480, 491 (1999).

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