SPS. TAN SING PAN AND MAGDALENA S. VERANGA, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 149114. July 21, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

Assailed and sought to be set aside in this petition for review under Rule 45 of the Rules of Court is the Decision[1] dated February 23, 2001 of the Court of Appeals (CA) in CA-G.R. CV No. 55325, as reiterated in its Resolution[2] of July 20, 2001, reversing an earlier decision of the 7[th] Municipal Circuit Trial Court (MCTC) of Atimonan-Plaridel, Quezon, acting as a special land registration court, which confirmed petitioners' title to Lot No. 18009 in Cadastral Case No. 67, LRC GLRO Rec. No. 1026.

The facts:

Sometime in 1931, the Director of Lands, acting for and in behalf of the Government, instituted with the then Court of First Instance of Gumaca, Quezon (now Branch 61, Regional Trial Court, Gumaca, Quezon) Cadastral Case No. 67, LRC GLRO Rec. No. 1026 pursuant to the government's initiative to place all lands under the Cadastral System whereby titles for all lands within a stated area are adjudicated regardless of whether or not people living within the area desire to have titles.

More than six (6) decades later, or more specifically on October 14, 1996, herein petitioners - the spouses Tan Sing Pan and Magdalena S. Veranga - filed their Answer in Cadastral Case No. 67 over which jurisdiction was assumed by the 7[th] MCTC of Atimonan-Plaridel, Quezon, acting as a special land registration court by virtue of Supreme Court (SC) Administrative Circular No. 6-93-4 dated November 15, 1995 which was issued pursuant to Section 34 of Batas Pambansa Blg. 129 as amended, and SC en banc Resolution dated March 25, 1993 in Administrative Matter No. 93-3-488-0.

In their Answer, petitioners asserted ownership over Lot No. 18009 (formerly Lot No. 1027-A of the Subd. Plan Csd-04-015150 of the Atimonan Cadastre) with an area of 565 square meters, more or less, and located at Barangay Rizal, Atimonan, Quezon. Petitioners averred that they acquired the lot in question pursuant to a deed of sale executed in their favor on July 10, 1978 by the children of the late Juan Laude who, in turn, inherited the property from his own deceased father, Leon Laude, the original claimant thereof. Petitioners alleged that they have been in possession of the lot for about eighteen (18) years from the time they purchased it from their predecessors-in-interest, have paid the realty taxes due thereon, and that their possession thereof was public, peaceful, in the concept of an owner, continuous and against the world. Tacking their possession to that of their predecessors-in-interest, petitioners claimed that they have been in possession of the subject lot for almost 60 years now.

On October 14, 1996, the 7[th] MCTC of Atimonan-Plaridel issued an Order admitting petitioners' aforementioned Answer, setting it for hearing and directing the posting of said Order in conspicuous places. It also directed the notification of all interested parties. Following the issuance by the branch clerk of court of a

Certification to the effect that the Order had been posted, the trial court, noting that no opposition was filed, allowed petitioners to present their evidence ex parte in the course of which petitioner Magdalena Veranga testified having complied with all the jurisdictional requirements by sending notices to all interested parties thru registered mail.[3]

On November 25, 1996, the trial court rendered its decision[4] confirming petitioners' title over Lot No. 18009 and directing the issuance of a decree of registration in their favor, to wit:

> WHEREFORE, this Court hereby approves Subdivision Plan Csd-04-015150 together with its technical description insofar as Lot No. 1027-A now equals to Lot No. 18009 of the Atimonan Cadastre is concerned, and confirming the order of general default previously entered in this case, all the requirements of the law having been complied with, this Court hereby adjudicates Lot No. 18009 before Lot No. 1027-A of Subdivision Plan Csd-04-015150 of the Atimonan Cadastre, together with the improvements existing thereon, in favor of movants-claimants spouses TAN SING PAN and MAGDALENA VERANGA, both of legal age, Filipino citizens, and residents of Atimonan, Quezon, as their conjugal partnership property, free from liens and encumbrances.
>
> The road, highways, streets, alleys, water courses and other portions of land not specified as lot located within the border of the land covered by this case are declared property of the Republic of the Philippines.
>
> Upon this decision becoming final, let a decree of confirmation and registration be entered and thereafter upon payment of the fees required by law, let the corresponding certificate of title be issued in the name of the movants-claimants.
>
> SO ORDERED.

In time, the Republic, represented by the Office of the Solicitor General, went on appeal to the CA on the sole jurisdictional issue of whether the trial court erred in proceeding with the hearing of the case despite petitioners' failure to prove the publication of the Notice of Initial Hearing in the Office Gazette.

In the herein assailed Decision dated February 23, 2001, the CA granted the Republic's appeal and accordingly reversed and set aside the appealed decision of the trial court, thus:

> WHEREFORE, the instant appeal is GRANTED and the appealed decision of the court a quo dated November 25, 1996 is hereby REVERSED and SET ASIDE.
>
> SO ORDERED.

Their motion for reconsideration having been denied by the CA in its equally challenged Resolution of July 20, 2001, petitioners are now with this Court via the present recourse on their principal submission that the CA committed reversible error in ruling that the trial court did not acquire jurisdiction over the case on account of their failure to present proof of publication of the Notice of Initial Hearing.

To petitioners, the jurisdictional requirement of publication of the Notice of Initial Hearing has been complied with way back in 1931 when the Director of Lands, acting for and in behalf of the Government, instituted Cadastral Case No. 67 because the present case is merely a continuation thereof. Petitioners insist that Cadastral Case No. 67 has long been the subject of court proceedings even before the outbreak of the Second World War and, consequently, all lots covered therein have already been included in the required publication. They also contend that the Republic cannot raise, and is already estopped from raising, this jurisdictional issue at this point in time when thousands of lots have already been adjudicated by the cadastral court without the need of publication. Petitioners hasten to add that, since it was the Director of Lands who initiated the cadastral proceedings, it was incumbent upon him to show proof of publication of the Notice of Initial Hearing.

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Petitioners' arguments are specious.

To be sure, publication of the Notice of Initial Hearing in the Official Gazette is one of the essential requisites for a court to acquire jurisdiction in land registration and cadastral cases, and additional territory cannot be included by amendment of the plan without new publication.

Section 7 of the Cadastral Act (Act No. 2259) provides:

> Sec. 7. Upon the receipt of the order of the court setting the time for initial hearing of the petition, the Commission on Land Registration shall cause notice thereof to be published twice, in successive issues of the Official Gazette, in the English language. The notice shall be issued by order of the Court, attested by the Commissioner of the Land Registration Office, xxx.

In Director of Lands, et al. v. Benitez, et al.,[5] the Court categorically stated that publication is essential to establish jurisdiction in land registration and cadastral cases, without which the court cannot acquire jurisdiction thereon or obtain any authority to proceed therewith.

Here, compliance with the publication requirement is rendered even more imperative by the fact that the lot involved was originally surveyed as Lot No. 1027 but what was adjudicated to petitioners is a portion designated as "Lot No. 1027-A now equal to Lot No. 18009 of the Atimonan Cadastre."[6] So it is that in Philippine Manufacturing Company v. Imperial,[7] the Court ruled:

> Upon consideration of the facts above stated it is quite obvious that the respondent judge had no jurisdiction whatever over lot No. 40 in the cadastral case now pending before him and the adjudication of said lot to the Cabangis heirs by the decision of July 16, 1925, is a mere nullity. From the agreed statement it is obvious that no publication has ever been made except the initial publication, and this did not include lot No. 40. Publication of course is one of the essential bases of the jurisdiction of the court in land registration and cadastral cases, and the attempt that was here made to incorporate lot No. 40 into the cadastral was futile. Before a cadastral survey can be amended so as to include land in which no publication has been made, new publication is necessary, - a step essential to the protection of persons interested in the property which is intended to be included. But even if the order amending the cadastral plan had not been wholly void, the facts above revealed would justify the granting of a new trial by this court under section 513 of the Code of Civil Procedure. However, in view of want of publication, it is only necessary here to pronounce the order of July 16, 1925, void, and a new trial is not called for.[8]

Cadastral proceedings, like ordinary registration proceedings, are proceedings in rem, and are governed by the usual rules of practice, procedure and evidence. A cadastral decree and a certificate of title are issued only after the applicants prove all the requisite jurisdictional facts: that they are entitled to the claimed lot; that all parties are heard; and that evidence is considered.

Instructive are the following pronouncements of the Court in Government of the Philippine Islands v. Abural:[9]

> Under the Cadastral System, pursuant to initiative on the part of the Government, titles for all the land within a stated area, are adjudicated whether or not the people living within this district desire to have titles issued. The purpose, as stated in section one of the Cadastral Act (No. 2259), is to serve the public interests, by requiring that the titles to any lands "be settled and adjudicated."
>
> Admitting that such compulsory registration of land and such excessive interference with private property constitutes due process of law and that the Acts providing for the same are constitutional, a question not here raised, yet a study of the law indicates that many precautions are taken to guard against injustice. The proceedings are initiated by a notice of survey. When the lands have been surveyed and plotted, the Director of Lands, represented by the Attorney General, files a petition in court praying that the titles to the lands named be settled and adjudicated. Notice of the filing of the petition is then published twice in successive issues of the

> Official Gazette in both the English and Spanish languages. All persons interested are given the benefit of assistance by competent officials and are informed of their rights. A trial is had. "All conflicting interests shall be adjudicated by the court and decrees awarded in favor of the persons entitled to the lands or the various parts thereof, and such decrees, when final, shall be the bases of original certificates of title in favor of said persons." (Act No. 2259, Sec. 11.) Aside from this, the commotion caused by the survey and a trial affecting ordinarily many people, together with the presence of strangers in the community, should serve to put all those affected on their guard.
>
> After trial in a cadastral case, three actions are taken. The first adjudicates ownership in favor of one of the claimants. This constitutes the decision - the judgment - the decree of the court, and speaks in a judicial manner. The second action is the declaration by the court that the decree is final and its order for the issuance of the certificates of title by the Chief of the Land Registration Office. Such order is made if within thirty days from the date of receipt of a copy of the decision no appeal is taken from the decision. This again is judicial action, although to a less degree than the first.
>
> The third and last action devolves upon the General Land Registration Office. This office has been instituted "for the due effectuation and accomplishment of the laws relative to the registration of land." (Administrative Code of 1917, Sec. 174.) An official found in the office, known as the chief surveyor, has as one of his duties "to prepare final decrees in all adjudicated cases." (Administrative Code of 1917, Sec. 177.) This latter decree contains the technical description of the land and may not be issued until a considerable time after the promulgation of the judgment. The form of the decree used by the General Land Registration Office concludes with the words: "Witness, the Honorable (name of the judge), on this the (date)." The date that is used as authority for the issuance of the decree is the date when, after hearing the evidence, the trial court decreed the adjudication and registration of the land.
>
> The judgment in a cadastral survey, including the rendition of the decree, is a judicial act. As the law says, the judicial decree when final is the base of the certificate of title. The issuance of the decree by the Land Registration Office is ministerial act. The date of the judgment, or more correctly stated, the date on which the defeated party receives a copy of the decision, begins the running of the time for the interposition of a motion for a new trial or for the perfection of an appeal to the Supreme Court. The date of the title prepared by the Chief Surveyor is unimportant, for the adjudication has taken place and all that is left to be performed is the mere formulation of the technical description. If an unknown individual could wait possibly years until the day before a surveyor gets around to transcribing a technical description of a piece of land, the defeated party could just as reasonably expect the same consideration for his appeal. As a matter of fact, the so-called unknown is a party just as much as the known oppositor for notice is to all the world, and the decree binds all the world.

As petitioners' themselves concede,[10] the filing of an answer or claim with the cadastral court is equivalent to an application for registration of title to real property. It is thus an action in rem[11] and the land registration court acquires jurisdiction over the res by service of processes in the manner prescribed by the statute.

In this connection, Section 35 of the Land Registration Decree, PD 1529, provides:

A. ORDER FOR SPEEDY SETTLEMENT AND ADJUDICATION; SURVEY; NOTICES

SEC. 35. Cadastral Survey prepatory to filing of petition. -

xxx xxx xxx

> (b) Thereupon, the Director of Lands shall give notice to persons claiming any interest in the lands, as well as to the general public, of the day on which such survey will begin, giving as fully and accurately as possible the description of the lands to be surveyed. Such notice shall be published once in the Official Gazette, and a copy of the notice in English or the national language shall be posted in a conspicuous place on the bulletin board of the municipal building of the municipality in which the lands or any portion thereof is situated. A copy of the

> notice shall also be sent to the mayor of such municipality as well as to the barangay captain and likewise to the Sangguniang Panlalawigan and the Sangguniang Bayan concerned. xxx

It is incumbent upon the petitioners to establish by positive proof that the publication requirement has been complied with, what with the fact that they are the ones who stood to be benefited by the adjudication of the subject lot. Regrettably, they failed to present proof of publication of the Notice of Initial Hearing. Their argument that the instant case is a mere continuation of the proceedings in Cadastral Case No. 67 whereat the Director of Lands must have caused the publication of the notice of initial hearing in the Official Gazette cannot hold water. For one, and as noted by the CA in the decision under review:

> Unfortunately for the [petitioner], they have not even proven the initial publication they are claiming. It would have been too facile to obtain proof of such publication from the original records of Cadastral Case No. 67 at the Regional Trial Court in Gumaca, Quezon, Branch 61, (See Exhibit "J"; Original Record, p. 25; which inferentially shows the existence of the original records) and offer it as evidence in the court a quo, but they seemingly did not care to do so. They have, therefore, only themselves to blame for their present predicament.[12] (Word in bracket added).

For another, by petitioners' own admission, the filing of their Answer which they did only after more than six (6) decades from the time Cadastral Case No. 67 was initiated by the Director of Lands is equivalent to an application for registration of title, and hence publication in the Official Gazette of the notice of initial hearing thereof is imperative to vest jurisdiction on the 7[th] MCTC to proceed with petitioners' application for registration in the form of their Answer.

All told, there being no indication at all from the records of the case that notice of the Order for Initial Hearing was published in the Official Gazette and in a newspaper of general circulation, without which the trial court did not acquire jurisdiction over the case, the decision rendered by the 7[th] MCTC of Atimonan-Plaridel, Quezon, confirming petitioners' title over the subject lot is void ab initio for having been rendered without jurisdiction.

WHEREFORE, the petition is DENIED and the assailed Decision and Resolution of the CA are AFFIRMED.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.

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[1] Penned by Associate Justice Salvador J. Valdez, Jr. (ret.), with Presiding Justice Salome A. Montoya (ret.) and Associate Justice Wenceslao I. Agnir, Jr. (ret.), concurring; Rollo, pp. 33-42.

[2] Rollo, pp. 51-52.

[3] Exhibits "B-1" to "B-12" and Exhibits "D" to "D-10."

[4] Rollo, pp. 31-32.

[5] G.R. No. L-21368, March 31, 1966, 16 SCRA 557.

[6] Rollo, p. 31.

[7] 49 Phil. 122 (1926).

[8] Rollo, p. 39.

[9] 39 Phil. 996 (1919).

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[10] Last paragraph, p. 11, Petition; Rollo, p. 18.

[11] Director of Lands v. Aba, et al., 68 Phil. 85 (1939).

[12] Rollo, p. 41.

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