

HI-TONE MARKETING CORPORATION, PETITIONER, VS. BAIKAL REALTY CORPORATION AND ALEJANDRO R. VILLANUEVA, IN HIS CAPACITY AS REGISTER OF DEEDS OF CAVITE, RESPONDENTS.

G.R. No. 149992. August 20, 2004

Ponente: TINGA, J.

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TINGA, J.:

The great and chief end of men . . . putting themselves under government, is the preservation of their property.
[John Locke, Treatises on Government]

This is a petition for review of the Court of Appeals' Decision[1] dated 02 May 2001 and Resolution dated 14 September 2001,[2] dismissing petitioner's petition for annulment of the 29 March 1995 Order of the Regional Trial Court (RTC) of Cavite at Trece Martires City, Branch 23 in Civil Case No. TM-582.[3]

On 22 February 1995, private respondent Baikal Realty Corporation ("Baikal Realty") filed a petition for mandamus with a prayer for preliminary injunction and/or temporary restraining order[4] with the RTC of Cavite to compel the Register of Deeds of Cavite ("Register of Deeds") to register two deeds of absolute sale covering two parcels of land, separately executed by Honorata Hernale and Benjamin Agrabiador in favor of Baikal Realty. The parcel of land purportedly sold by Honorata Hernale is covered by Transfer Certificate of Title (TCT) No. T-2292[5] of the Registry of Deeds of the Province of Cavite and denominated as Lot 5765-A, with the following technical description recited thereon:

A parcel of land (Lot 5765-A of the subdivision plan Fls-742-D, being a portion of Lot 5765 of Imus Estate, L.R.C. Record No. 8843), situated in the Barrio of Salawag, Municipality of Dasmarinas, Province of Cavite. Bounded on the N., along line 1-2, by Lot 5762, along line 2-3, by lot 5764 and along line 3-4, by Lot 5766, on the W., along lines 4-5-6-7-8-9, by Lot 5769, all of Imus Estate; on the S., along lines 9-10-11-12-13, by Lot 5765-B of the subdivision plan; and on the E., along lines 13-14-15-16-1, by Lot 5761, Imus Estate. Beginning at a point marked "I" on plan, being EAST, 778.30 m. from Mon. 170, Imus Estate, thence WEST, 425.20 m. to point 3; thence WEST, 214.50 m. to point 3; thence WEST, 330.90 m. to point 4; thence S. 5 deg. 10'W., 14.50 m. to point 5; thence S. 9 deg. 07'E., 21.50 m. to point 6; thence S. 33 deg. 35'E., 14.30 m. to point 7; thence S.16 deg. 03'W., 35.80 m. to point 8; thence S. 38 deg. 43'E., 32.90 m. to point 9; thence N. 59 deg. 56'E., 185.00 m. to point 10; thence N. 80 deg. 56'E., 240.00 m. to point 11; thence N. 89 deg. 56'E., 240.00 m. to point 12; thence N. 80 deg. 56'E., 232.93 m. to point 13; thence N. 29 deg. 31'E., 47.01 m. to point 14; thence N. 48 deg. 18'E., 45.50 m. to point 15; thence N. 3 deg. 46'W., 28.90 m. to point 16; thence N. 1 deg. 13'E., 56.30 m. to the point of beginning; containing an area of ONE HUNDRED FORTY NINE THOUSAND NINE HUNDRED FIFTY THREE (149,953) SQUARE METERS. All points referred to are indicated on the plan and marked on the ground as follows: points 1, 2, 3, 4, 9, 10, 11, 12, and 13 by P.L.S. Conc. Mons.; and the rest by Old Points; bearings true; date of the original survey, July 27, 1905 to June 1, 1908, and that of the subdivision survey, July 5 & 6, 1930 and approved on Aug. 6, 1931.

Note: Lot No. 5765-A - Lot 5765 – New of Imus Estate

On its face, TCT No. T-2292 appears to have been derived from TCT No. RT-1662-12 (T-11791-79) which is a reconstituted title.

On the other hand, the property sold by Benjamin Agrabiador is covered by TCT No. T-27163[6] (Cavite). Likewise, TCT No. T-27163 appears to have been derived from TCT No. RT-3918-27 which is another reconstituted title.

According to Baikal Realty, the Register of Deeds refused to register the subject deeds of absolute sale despite the former's compliance with all the requirements for registration, as the latter reasoned out that the parcels of land sold by Hernale and Agrabiador are, according to the records of the Registry, covered by transfer certificates of title different from those mentioned in the deeds.[7]

On the day following the filing of the petition for mandamus, or on 23 February 1995, respondent Judge Jose J. Parentela issued a temporary restraining order[8] ("TRO") commanding the Register of Deeds to desist from recording or annotating any transaction affecting the properties covered by TCT No. T-2292 and No. T-27163.

Subsequently, on 08 March 1995, Baikal Realty filed a Motion to Withdraw Petition Without Prejudice,[9] which was granted[10] on the same day. In the same Order[11] dated 08 March 1995, the TRO dated 23 February 1995 was also recalled. But the motion, however, was later withdrawn on the ground of Baikal Realty's miscommunication with its counsel. On 21 March 1995, respondent judge issued an Order[12] recalling the order granting withdrawal of the petition, and another Order[13] directing the Register of Deeds to show cause on or before 29 March 1995 why the petition should not be granted.

On 28 March 1995, petitioner Hi-Tone Marketing Corporation ("Hi-Tone") filed a Motion for Intervention,[14] claiming to be the lawful and registered owner of the parcel of land subject of the deed of sale executed by Honorata Hernale and sought to be registered by Baikal Realty. Hi-Tone claimed that sometime in March 1995, it discovered that some persons under the employ of Baikal Realty had begun developing the property into a residential subdivision, and it was only on 28 March 1995 that it learned of the petition filed by Baikal Realty.[15] Hi-Tone presented its TCT No. T-11258[16] (Cavite) also covering Lot 5765-A and reciting the same technical description found in Hernales' TCT No. T-2292.

In compliance with the second order dated 21 March 1995, the Register of Deeds filed a Manifestation,[17] stating that Baikal Realty should have first exhausted the administrative remedies before filing its petition, particularly the procedure on consulta under Section 117 of the Property Registration Decree which is Presidential Decree (P.D.) No. 1529. In the same Manifestation, the Register of Deeds further averred that he elevated the matter of registration of the subject properties to the Land Registration Authority ("LRA") for resolution through a letter dated 15 March 1995, since the transfer certificates of title appeared to have been derived from titles which are not on file in the Registry.

During the 29 March 1995 hearing, respondent judge denied Hi-Tone's motion for intervention for failure to comply with the three (3) - day notice rule. Hi-Tone orally moved for reconsideration of the denial of its motion, arguing that it could not observe the rule because of the urgency of the situation. Respondent judge denied the motion for reconsideration.[18]

In an Order dated 29 March 1995,[19] the respondent judge denied Hi-Tone's motion for intervention. Interestingly, the same order likewise contained the following paragraph in reference to Hi-Tone's second motion for intervention which was to be filed two days later still:

Anent the Motion for Leave of Court to Intervene and Admit Opposition dated March 31, 1995 filed by Hi-Tone Marketing Corporation and considering further, the Opposition interposed thereto by plaintiff, let the hearing for

oral arguments be re-set on April 20, 1995 at 8:30 o'clock in the morning.

In another Order dated 29 March 1995,[20] the judge, upon mere verbal motion of Baikal Realty's counsel, then and there declared the Register of Deeds in default and allowed Baikal Realty to present its evidence ex-parte also on the same day. Baikal Realty presented only one witness, its own liaison officer.[21]

The trial court issued a third order[22] dated 29 March 1995, hereinafter referred to as the "questioned order," directing the Register of Deeds to register the subject deeds of absolute sale and to issue new transfer certificates of title in favor of Baikal Realty. The questioned order reads, thus:

Considering that the duties enjoined upon the Register of Deeds by Sec. 57 by the Property Registration Decree are clearly ministerial and mandatory in character and that the Register of Deeds is not authorized to determine whether or not fraud was committed in the deed sought to be registered (IN RE Consulta of Vicente J. Francisco on behalf of Cabantog, 67 Phil. 222) and it appearing that the right of the plaintiff is well defined and certain, in view of the presence of the requirements for the registration of a deed of absolute sale and that the right to register said deed of sale is enjoined by law, this Court resolves that a writ of mandamus be issued as prayed for in the verified petition filed by Baikal Realty Corporation through counsel.

WHEREFORE, premises considered, the Register of Deeds of Cavite Province is hereby directed to register the Deed of Absolute Sale executed by Honorato Hernale on February 20, 1994 in favor of Baikal Realty Corporation and that executed by Benjamin Agrabiador on March 15, 1994 in favor of the same plaintiff corporation regarding [TCTs] Nos. T-2292 and T-27163, respectively, and to issue new Transfer Certificates of Title regarding said parcels of land in favor of said plaintiff corporation.

On 31 March 1995, Hi-Tone filed a Motion for Leave of Court to Intervene and Admit Opposition,[23] setting the hearing thereof on 03 April 1995. The respondent judge, however, reset it to 20 April 1995 on the ground that Baikal Realty's opposition[24] to the motion was received only on 03 April 1995.[25]

The records show, without any explanation however, that as early as 10 March 1995, Baikal Realty secured TCT No. T-542567 covering Lot 5765-A in its name from the Register of Deeds.[26] On 6 April 1995, Hi-Tone caused the annotation of a notice of lis pendens at the back of TCT No. T-542567.[27]

During the 20 April 1995 hearing, Hi-Tone's counsel manifested that it was withdrawing its motion for leave to intervene and would instead file an independent case.[28] The trial court granted the withdrawal.[29]

On 21 April 1995, Hi-Tone filed a Petition under Rule 65 of the Revised Rules of Court with the Court of Appeals.[30] It imputed grave abuse of discretion to respondent judge in 1) declaring the Register of Deeds in default without any factual or legal basis; 2) stringently enforcing technical rules of procedure without considering the actual merits of the case; 3) not taking judicial notice that Baikal Realty failed to exhaust administrative remedies and that Baikal Realty's documents and titles are fictitious and questionable while Hi-Tone has a valid and legal title over the subject property; and 4) issuing the 29 March 1995 Order directing the Register of Deeds to register the subject deed in Baikal Realty's name in violation of Hi-Tone's right to due process. Thus, Hi-Tone prayed for the nullification of the questioned order.

Meanwhile, it appears that Baikal Realty filed a Complaint, docketed as Civil Case No. TM-588 of the RTC of Cavite (Trece Martires City), for annulment and/or cancellation of title with prayer for provisional remedies and damages.[31] Acting upon the application, the respondent judge issued on 17 April 1995 a TRO[32] directing the Register of Deeds (Trece Martires City) to desist from recording, entering, or annotating any transaction adversely affecting the new titles issued in the name of Baikal Realty and prohibiting Hi-Tone from directly and indirectly causing said acts to be done, and from encumbering or mortgaging in any manner the properties covered by the

new titles, or entering or attempting or trying to enter the properties.

Hi-Tone filed a Supplemental Petition on 26 April 1995.[33] It assailed the 17 April 1995 TRO in Civil Case No. TM-588 for having been issued with grave abuse of discretion,[34] since it is contrary to law as the right to the subject property was still under dispute.[35]

In its 04 May 1995 Decision,[36] the Court of Appeals dismissed the petition, holding that:

. . . Not being a party to aforesaid case, petitioner, therefore, has no personality to participate, much more to question the orders issued therein. Petitioner must seek its remedy elsewhere, but not in this proceeding.

On 26 May 1995, Hi-Tone filed its Motion for Reconsideration,[37] asserting that its petition, though styled as a petition for review on certiorari, was in substance a petition for annulment of judgment.[38] The petition being such, Hi-Tone claimed it had personality to file it since under the rules a person who is not even a party to the judgment may sue for its annulment.[39]

Debunking the motion for reconsideration, in its Resolution dated 27 June 1995[40] the appellate court held that the allegations of the petition emphatically stressed Hi-Tone's intention to file a Rule 65 petition. It added that the allegations in the petition could not even make out a case for annulment of judgment.

On 8 August 1995, in Civil Case No. TM-582 the lower court rendered its Decision[41] which is essentially a judgment by default. Its dispositive portion reads, thus:

WHEREFORE, a final injunction perpetually restraining defendant Register of Deeds of Cavite Province and/or other persons acting upon his authority and/or are hereby permanently enjoined from the commission or continuance of recording or annotating any transaction regarding the said properties of plaintiff corporation covered by TCT Nos. T-2292 and T-27163 in the names of Honorata Hernale and Benjamin Agrabiador, respectively, except that entered into by plaintiff corporation.

Parenthetically, the writ of mandamus issued by this Court to said Register of Deeds in its Order dated March 29, 1995 is not dissolved, modified or withdrawn and shall remain in force and in effect, unless otherwise directed by a lawful order.

SO ORDERED.[42]

Claiming to have taken its cue from the Court of Appeals' dismissal of its initial petition, Hi-Tone caused the filing of another petition, this time a petition for annulment of judgment.[43] Here, Hi-Tone claimed that the questioned order dated 29 March 1995 is void as it was issued in clear violation of due process, i.e., before Hi-Tone, an indispensable party, could be granted an opportunity to be heard. It pointed out that while respondent judge had set the hearing of the Motion for Leave to Intervene and Admit Opposition" on 20 April 1995, he had already acted on the merits of the petition for mandamus and promulgated the questioned order on 29 March 1995.[44] It added that Judge Parentela's predilection to deprive it of due process was also evident from the latter's denial of its first motion for intervention based on a mere technicality.[45] It also submitted that respondent judge committed grave abuse of discretion in not considering that Baikal Realty failed to exhaust the administrative remedy provided in Section 117 of P.D. No. 1529.[46]

In the assailed Decision,[47] the Court of Appeals dismissed the petition for annulment of judgment, ratiocinating that:

A simple perusal of the case shows that the petitioner failed to allege the presence of extrinsic fraud or lack of jurisdiction as would entitle it to avail of the remedy of annulment of judgment.

Petitioner merely alleged that it was denied due process of law as it was not given the opportunity to be heard, its

motion for intervention having been denied. The action instituted by the herein petitioner cannot make out a case for annulment, therefore the same must be dismissed. The petitioner however is not precluded from filing the appropriate action in the proper court.[48]

In the Motion for Reconsideration filed on 31 May 2001,[49] Hi-Tone insisted that the Court of Appeals erred when it limited the grounds for annulment of a judgment to extrinsic fraud and lack of jurisdiction, since jurisprudence also recognizes denial of due process as a ground. It also posited that the denial of its petition for annulment of judgment would be unjust since the petition was the only remedy available to it.

On 14 September 2001, the Court of Appeals denied the motion for reconsideration.[50] It held that Hi-Tone was not deprived of due process since it was given a chance to be heard on its motion, but instead of attending the hearing set on 20 April 1995, it filed a petition for certiorari. The appellate court also ruled that the petition was not merely for annulment of a Regional Trial Court judgment, but rather it made out an action for reconveyance which falls under the jurisdiction of the Regional Trial Court.

In the instant petition for review, petitioner submits the following assignment of errors[51] for the Court's resolution:

- The Court of Appeals erred in dismissing Hi-Tone's petition for annulment of judgment; respondent judge, through the questioned order, deprived Hi-Tone of its right to due process, which is a proper ground for the Court of Appeals to annul the questioned order.
- Hi-Tone is an indispensable party and, thus, has a right to intervene.
- Respondent judge acted with undue haste in disposing of Civil Case No. TM-582 in Baikal Realty's Favor, despite having been alerted to the fact that Baikal Realty's title was reportedly spurious.
- The Court of Appeals erred in ruling that Hi-Tone's petition is a case for reconveyance cognizable by the regional trial court and not a petition for annulment of a regional trial court's judgment, over which the Court of Appeals has jurisdiction to decide.

For its part, Baikal Realty claims that the denial of Hi-Tone's motion to intervene does not constitute such extrinsic fraud as to entitle Hi-Tone to the remedy of annulment of judgment.[52] To support this argument, Baikal Realty asserts that it did not prevent Hi-Tone from fully presenting its side of the case.[53] Baikal Realty also points out that Hi-Tone was not deprived of due process as it had the opportunity to be heard on its motion for reconsideration of the order denying its motion to intervene. Lastly, Baikal Realty asserts that since the property subject of the instant petition was, according to Hi-Tone, unlawfully taken, its cause of action against Baikal Realty is for the recovery of property, or simply stated, for reconveyance.[54]

We find merit in the petition.

An action for annulment of judgment is grounded only on two justifications: (1) extrinsic fraud; and (2) lack of jurisdiction or denial of due process.[55] The purpose of such action is to have the final and executory judgment set aside so that there will be a renewal of litigation.[56]

While the procedural rule is that a party is required to indicate in his brief an assignment of errors and only those assigned shall be considered by the appellate court in deciding the case,[57] it is equally settled that appellate courts have ample authority to rule on matters not assigned as errors in an appeal, if these are indispensable or necessary to the just resolution of the pleaded issues.[58] This Court has allowed the consideration of other grounds not raised or assigned as errors specifically in the following instances: 1) grounds not assigned as errors but affecting jurisdiction over the subject matter; 2) matters not assigned as errors on appeal but are evidently

plain or clerical errors within the contemplation of the law; 3) matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interest of justice or to avoid dispensing piecemeal justice; 4) matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; 5) matters not assigned as errors on appeal but closely related to an error assigned; and 6) matters not assigned as errors on appeal but upon which the determination of a question properly assigned is dependent.[59]

The basic issues in this petition may be reduced to only two, namely: (i) whether the questioned order and, necessarily, the judgment by default in Civil Case No. TM-582 are subject to annulment, and (ii) whether the petition before the Court of Appeals is a petition for annulment of judgment or an action for reconveyance.

The petition for annulment of the 29 March 1995 order is anchored on Baikal Realty's manifest bent to outflank Hi-Tone or gain undue advantage over it every step of the way, and respondent judge's predilection to deprive Hi-Tone of its right to due process, as particularly highlighted by the issuance of the questioned order even before allowing Hi-Tone, an indispensable party, to be heard. However, in the course of reviewing the case, this Court found several related aspects which were not discussed or simply glossed over in the proceedings below, but which are determinative of the case. Otherwise stated, the annulment of the questioned order hinges not only on the resolution of the issues explicitly raised but other matters which are necessarily intertwined with and logically interwoven in such issues.

Taking the conduct of Baikal Realty and the behavior of the respondent judge in joint context, some of their acts constitute denial of due process, others both denial of due process and extrinsic fraud, and still others extrinsic fraud alone.

There is extrinsic fraud when a party is prevented from having trial or from presenting all of his case to the court.[60] In *Macabingkil v. People's Homesite and Housing Corporation*,[61] this Court, citing Justice Miller in the case of *U.S. v. Throckmorton*, 25 L. ed. 93, 95, stated:

But there is an admitted exception to this general rule, in cases where, by reason of something done by the successful party to a suit, there was, in fact, no adversary trial or decision of the issue in the case. Where the successful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise, or where the defendant never had knowledge of the suit, being kept in ignorance by the act of the plaintiff; or where an attorney fraudulently without an authority assumes to represent a party and connives at his defeat; or where the attorney regularly employed corruptly sells out his client's interest to the other side — these, and similar cases which show that there has never been a real contest in the trial or hearing of the case, are reasons for which a new suit may be sustained to set aside and annul a former judgment or decree, and open the case for a new and fair hearing See, *Wells, Res Adjudicata*, sec. 499; *Pearce v. Olney*, 20 Conn., 544; *Wierich v. De Zoya*, 7 Ill., (2 Gilm.) 385; *Kent v. Richards*, 3 Md. Ch., 396; *Smith v. Lowry*, 1 Johns. Ch., 320; *De Louis v. Meek*, 2 Green (Iowa), 55.

In all these cases and many others which have been examined, relief has been granted on the ground that, by some fraud practiced directly upon the party seeking relief against the judgment or decree, that party has been prevented from presenting all of this case to the court. (*Italics supplied*)

Spread across the record of this case are manifestations of the shared proclivity of the respondent judge and Baikal Realty to deny Hi-Tone of every available opportunity to present its case and leave it out in the cold. While respondent judge exhibited utmost leniency and accommodation of Baikal Realty's inclinations, he treated Hi-Tone with uncompromising rigidity and in an underhanded manner. Below are the pellucid indicia of denial of

due process and commission of extrinsic fraud:

First. Respondent judge preferred what is dubious and potentially spurious — the title relied upon by Baikal Realty, and at the same time ignored the transparent and reliable — the title submitted by Hi-Tone. Proceeding on that basis, with unholy haste and misplaced urgency, he categorically stated that “the right of the plaintiff is well-defined and certain, in view of the requirements for his registration of a deed of absolute sale and that the right to register said deed of sale is enjoined by law.”[62] Respondent judge should have been alerted by the fact that Hi-Tone, in its very first motion for intervention, presented a transfer certificate of title which was derived from an existing title, in sharp contrast with Baikal Realty’s reconstituted titles which were nowhere found in the registration books of the Register of Deeds.

More specifically, Hi-Tone relied on TCT No. T-11258 which was derived from TCT No. T-931-7,[63] with both the present title and the preceding one found in the files of the Registry of Deeds. In comparison, Baikal Realty based its claim on TCT No. T-2292 which on its face appears to have been derived from TCT No. RT-1662-12,[64] a reconstituted title which is not on file with the Registry of Deeds. Moreover, while Hi-Tone’s TCT No. T-11258 was issued way back on 6 October 1964, Baikal Realty’s supposed property interest arose only thirty (30) years later in 1994.[65] The alleged deed of sale of Honorata Hernale was undated, so was the deed of sale executed by Benjamin Agrabiador.[66] The year the deeds were executed may be gleaned only from the dates of the residence certificates of the supposed vendors.[67]

The reconstitution of a title is simply the reissuance of a new duplicate certificate of title allegedly lost or destroyed in its original form and condition.[68] While a reconstituted title has the same validity and effect as the original thereof,[69] however, if in fact the certificate of title has not been lost but is in the possession of another person, the reconstituted title is in effect void.[70]

Second. The respondent judge dismissed without prejudice the petition for mandamus at the instance of Baikal Realty.[71] Subsequently, Baikal Realty moved for the recall of the order of dismissal allegedly due to a communication gap with Baikal Realty’s counsel. The respondent judge, citing “compassionate justice, fair play and equity,” recalled the order dismissing the case.[72]

However, the respondent judge conveniently forgot the same tenets of compassionate justice, fair play and equity when he denied outright Hi-Tone’s motion for intervention solely for failure to comply with the three-day notice rule, despite the urgency of the situation.[73] It is worthy to note that even under the Revised Rules of Court, the three-day notice rule may be disregarded for good cause and the trial court may set the hearing on a shorter notice.[74] Hi-Tone’s belated discovery of the then pending mandamus case of Baikal Realty, it not being an impleaded party to the case, and the potentially adverse effect of the mandamus order were valid and justifiable reasons to relax this technical rule. Yet, respondent judge was bent on denying the motion for intervention and proceeding with the mandamus case.

Third. In an Order dated 29 March 1995, the respondent judge declared the Register of Deeds in default, upon verbal motion of Baikal Realty, allegedly for its failure to file an answer, and allowed Baikal Realty to present evidence ex-parte on the same day. In the interest of fair play and orderly procedure, he should have required Baikal Realty to put down its motion for default in writing, allow the Register of Deeds to comment or object also in writing and scheduled the motion for hearing on a definite date. After all, the motion is litigious in character. Moreover, respondent judge had required the Register of Deeds to show cause why the petition for mandamus should not be granted and that was what the Register of Deeds precisely did with his Manifestation. Under Section 6, Rule 65 of the Rules of Court, the defendant in a mandamus case should be made to answer within ten (10) days from receipt of the corresponding order. Here, respondent judge effectively gave the Register of Deeds

only eight (8) days, i.e., from the date of order which was 21 March up to the hearing set on 29 March 1995.

More fundamentally, the Manifestation filed by the Register of Deeds, upon close perusal and for all intents and purposes, could validly serve as his answer to the petition,[75] more so if it is taken in conjunction with Annex “A”[76] thereof.

Most importantly, in view of the Register of Deeds’ explanation that the titles sought to be cancelled and transferred to Baikal Realty were not on file with the Registry, and that the matter was already raised on consulta, respondent judge should have waited for the resolution of the LRA on the matter.[77] Resolute in disposing of the petition in record time, respondent judge disregarded the well-entrenched doctrine of exhaustion of administrative remedies and proceeded with hearing and disposing of the mandamus case.

Fourth. On 29 March 1995, respondent judge ordered the resetting of the hearing of Hi-Tone’s Motion for Leave to Intervene and Admit Opposition to 20 April 1995,[78] two days before the motion was filed on 31 March 1995. How could he have officially obtained a copy of said motion and acted on the same on 29 March 1995? Either he had superior powers of divination, or he antedated it to fit in with his stratagem of accommodation for Baikal Realty. Hi-Tone had set the motion for hearing on 03 April 1995.[79] Moreover, the reason given for the resetting which was that Hi-Tone’s opposition to the motion was received by the court on that day, 03 April 1995, precisely warranted the holding of the hearing as originally scheduled.

Fifth. To complicate things further, likewise on 29 March 1995, respondent judge issued the questioned order,[80] requiring the Register of Deeds to process the deeds of absolute sale and issue the corresponding new titles in favor of Baikal Realty. In so doing, respondent judge left Hi-Tone’s Motion for Leave to Intervene and Admit Opposition hanging and unresolved. He also rendered the 20 April 1995 hearing of the motion—which he scheduled in another order he issued on the same day—moot and academic. To add insult to injury, in the questioned order respondent judge concentrated on the so-called “ministerial and mandatory” nature of the Register of Deeds’ duty and the supposed completeness of the requirements for registration of Baikal Realty’s deeds of sale, without as much a passing mention of the (i) reasons given by the Register of Deeds for his refusal to issue new titles to Baikal Realty, (ii) the pendency of Hi-Tone’s motion for intervention much more of the grounds presented therein, and (iii) the caveat of the LRA Administrator in his letter[81] dated 2 March 1995 that he listed the requirements for registration “assuming the regularity of the instruments to be registered.”

Intervention is a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein to enable him to protect or preserve a right or interest which may be affected by such proceeding.[82] Section 1, Rule 19 of the 1997 Rules of Civil Procedure, provides:

SECTION 1. Who may intervene. — A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

Hi-Tone sought intervention in Civil Case No. TM-582, asserting ownership over one of the parcels of land which Baikal Realty wants to be registered in its name. Clearly, the thrust of the motion is that Hi-Tone stood to be adversely affected should a title covering the contested property be issued in favor of Baikal Realty. While the settled rule is that allowance or disallowance of a motion to intervene is addressed to the sound discretion of the court before which the case is pending, the same rule presupposes that the movant should be allowed, at the very least, an opportunity to show that he is entitled to intervene. In the present case, even before Hi-Tone could

substantiate its right to intervene in the scheduled hearing, respondent judge issued his questioned order which effectively prevented Hi-Tone from becoming a party to the case. On this aspect, the Court of Appeals stated that Hi-Tone did not attend the scheduled hearing and instead filed a petition for certiorari.[83] It held that petitioner could not successfully invoke deprivation of due process “since it was given the chance to be heard in its motion.”[84] We disagree.

To repeat, the hearing on Hi-Tone’s Motion for Leave to Intervene scheduled on 20 April 1995 was rendered moot and academic by the trial court’s questioned order. Intervention being merely ancillary and supplemental to the principal action,[85] it would no longer be warranted when a judgment has been rendered by the court.[86] With the order for mandamus already issued and the judgment by default already rendered, any subsequent hearing on motion for intervention would only be a charade as its outcome was virtually preempted and foreclosed by the court’s earlier determination. Clearly, Hi-Tone was deprived of its right to due process.

Sixth. Respondent judge’s partiality to Baikal Realty was also evident when, taking cognizance of the new case (Civil Case No. TM-588) filed by the latter, he issued a TRO on 17 April 1995 — less than three (3) months after he issued the questioned order — although Baikal Realty’s right to the subject property was seriously challenged by both the Register of Deeds of Cavite and Hi-Tone in Civil Case No. TM-582. Although issued as a TRO in another case, this order had made the 29 March 1995 questioned order in Civil Case No. TM-582 practically final and executory. For one, it effectively prevented the Register of Deeds from taking action even should the LRA come up with a decision adverse to Baikal Realty in the pending consulta. For another, efficaciously precluded Hi-Tone from exercising ownership although its title thereto has not been explicitly invalidated by any valid and enforceable judgment.

In close retrospection, the TRO in Civil Case No. TM-588 was a perfidious move to waylay Hi-Tone and the Register of Deeds which could not have been done in Civil Case No. TM-582. No TRO could be issued against Hi-Tone in TM-582 simply because the respondent judge had rejected it as a party to the case. Neither could he effectively and instantly hamstringing the Register of Deeds with the mandamus order alone because it could not be made immediately executory and also because of the reality that the Register of Deeds is under the LRA Administrator whose decisions and orders he has to follow.

Seventh. Baikal Realty, which is the willing beneficiary of the orders issued and moves taken by respondent judge, did its part in the pursuit of its self-interest. It precipitated or supported the actions taken by respondent judge, thus:

- (i) While Baikal Realty largely ignored Hi-Tone and blocked its participation in the case, the former saw to it that Hi-Tone would not be able to thwart its objectives concerning the property. By securing a TRO[87] on the day following the filing of the petition for mandamus, which ostensibly enjoined only the Register of Deeds from recording or annotating transactions on the property, it effectively precluded Hi-Tone from entering into contracts and making transactions on the property;
- (ii) Baikal Realty managed to secure the title to the property as early as 10 March 1995,[88] spiritedly resisting at the same time the countervailing efforts of Hi-Tone;
- (iii) Despite the pendency of Civil Case No. TM-582, Baikal Realty filed another case, Civil Case No. TM-588, which was raffled off also to respondent judge, wherein it succeeded in securing another TRO[89] dated 7 April 1995, respectively enjoining Hi-Tone and the Register of Deeds from dealing with the property; and
- (iv) On 08 August 1995, Baikal Realty obtained a judgment[90] by default in Civil Case No TM-582 which maintained the writ of mandamus he issued earlier.

All considered, respondent judge made Baikal Realty prevail at all cost despite the lack of official documentary support for its claim, and made short shrift of Hi-Tone's position notwithstanding the uncontested validity of its title and the Register of Deeds' affirmation thereof. He failed to display a modicum of restraint and made no effort to project even a façade of impartiality in granting reliefs to Baikal Realty which he did so with extraordinary speed. Although Hi-Tone is evidently an indispensable party. Judge Parentela repulsed all its efforts to intervene in the case and acted on the merits of the case even before it could pass upon the merits on Hi-Tone's motion for intervention through procedural shortcuts and technicalities. With the integrity of the Torrens system at stake and substantial property interests imperiled, he adamantly refused to elevate the proceeding from a simple mandamus case to a full-blown land controversy which the case truly is. In the process, he was miserably remiss in not heeding the guiding principle this Court set in *Director of Lands v. Court of Appeals*[91] on motions for intervention in relation to reconstituted titles, to wit:

But Rule 12 of the Rules of Court like all other Rules therein promulgated, is simply a rule of procedure, the whole purpose and object of which is to make the powers of the Court fully and completely available for justice. Its proper aim is to facilitate the application of justice to the rival claims of contending parties. It was created not to hinder and delay but to facilitate and promote the administration of justice. It does not constitute the thing itself which courts are always striving to secure to litigants. It is designed as the means best adopted to obtain that thing. In other words, it is a means to an end.

The denial of the motions for intervention arising from the strict application of the Rule due to alleged lack of notice to, or the alleged failure of, movants to act seasonably will lead the Court to commit an act of injustice to the movants, to their successors in interest and to all purchasers for value and in good faith and thereby open the door to fraud, falsehood and misrepresentation, should intervenors' claims be proven to be true.[92]

Anent the second issue, we agree with Hi-Tone that the instant case is not one for reconveyance, but, primarily for annulment of judgment.

An action for reconveyance is a legal and equitable remedy granted to the rightful owner of land which has been wrongfully or erroneously registered in the name of another for the purpose of compelling the latter to transfer or reconvey the land to him. Its aim is to show that the person who secured the registration of the questioned property is not its real owner.[93] In an action for reconveyance, the decree of registration is respected as incontrovertible. What is sought instead is the transfer of the property, which has been wrongfully or erroneously registered in another person's name, to its rightful and legal owner, or to one with a better right.[94]

Far from seeking conveyance, the thrust of Hi-Tone's petition is to annul the judgment or order in favor of Baikal Realty for the purpose of securing the preservation of its title and the vindication of its right to the disputed property. Working in its favor are the available twin grounds of due process violation and extrinsic fraud. On the other hand, Hi-Tone has never sought as a relief the transfer of the title to, or the recovery of the possession, of the property. According to the record, it did not have to as its title has remained valid and it has not lost possession of the property.

One final note. There are developments in the case subsequent to the questioned order. One is the issuance of TCT No. T-542567 covering Lot 5765-A in the name of Baikal Realty. Another is the rendition of the Decision in Civil Case No. TM-582. These subsequent developments are not only connected with, but have arisen from, the questioned order. Being fruits of the poisonous tree, that is the questioned order, so to speak, they may be invalidated in this case although their nullification was not understandably sought in the petition.

WHEREFORE, the instant petition is GRANTED. The Decision dated 02 May 2001 and Resolution dated 14 September 2001 of the Court of Appeals in CA-G.R. SP No. 38117 entitled *Hi-Tone Marketing Corporation v.*

Honorable Jose J. Parentela, Alejandro Villanueva and Baikal Realty Corporation are hereby REVERSED and SET ASIDE. The Order dated 29 March 1995 and the Decision dated 08 August 1995 of the Regional Trial Court of Cavite at Trece Martires City, Branch 23, in Civil Case No. TM-582 are SET ASIDE. Transfer Certificate of Title No. T-542567 (Cavite) covering Lot 5765-A in the name of Baikal Realty Corporation is declared VOID. Costs against the respondent corporation.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Promulgated by the Special Former Sixteenth Division, penned by Justice Eubolo G. Verzola, with Justices Elvi John S. Asuncion and Edgardo P. Cruz, concurring; Rollo, pp. 49-52.

[2] Rollo, pp. 56-57.

[3] Penned by Judge Jose J. Parentela, Jr., Rollo, p. 101.

[4] Id. at 58-68.

[5] RTC Records, p. 13.

[6] Id. at 20.

[7] RTC Records, p. 4.

[8] Id. at 26.

[9] Id. at 29.

[10] Rollo, p. 69.

[11] Ibid.

[12] Rollo, p. 70.

[13] Id. at 71.

[14] Id. at 72-75.

[15] Id. at 73.

[16] Id. at 79.

[17] Id. at 76.

[18] Id. at 27.

[19] Id. at 89.

[20] Id. at 90.

[21] RTC Records, pp. 170-185.

[22] Supra note 3.

[23] Rollo, pp. 91-93.

[24] RTC Records, pp. 119-121.

[25] Rollo, p. 100.

[26] RTC Records, p. 139.

[27] Entry No. 8694-72; RTC Records, p. 140. The Court, however, ordered its cancellation on 21 April 1995; RTC Records, p. 142.

[28] TSN dated 20 April 1995, p. 2.

[29] RTC Records, p.135.

[30] Docketed as C.A. G.R. No. 37047, Rollo, p. 102.

[31] The complaint entitled “Baikal Realty Corporation v. Register of Deeds of Cavite, and Hi-Tone Marketing Corporation” was raffled to Branch 23, presided by Judge Jose J. Parentela; CA Records, p. 105.

[32] Ibid.

[33] Rollo, p. 128.

[34] Id. at 130.

[35] Id. at 134.

[36] Rollo, p. 144. Penned by Justice Emeterio C. Cui, with Justices (now SC Justice) Angelina Sandoval-Gutierrez and Justice Conrado M. Vasquez, Jr., concurring.

[37] Id. at 147.

[38] Id. at 148.

[39] Id. at 154.

[40] Id. at 158.

[41] RTC Records, pp. 148-155.

[42] Id. at 154-155.

[43] Filed on 11 August 1995, docketed as C.A.-G.R. No. 38117; Rollo, p. 160.

[44] Rollo, p. 172

[45] Id. at 173.

[46] Id. at 174.

[47] Supra note 2.

[48] Rollo, pp. 51-52.

[49] Id. at 221-229.

[50] Id. at 56-57.

[51] Id. at 31.

[52] Id. at 552.

[53] Id. at 553.

[54] Id. at 555.

[55] Pinlac v. Court of Appeals, 349 SCRA 635, 650, G.R. No. 91486, 19 January 2001, citing Strait Times, Inc. v. Court of Appeals, 294 SCRA 714 (1998) and Salonga v. Court of Appeals, 269 SCRA 534 (1997).

[56] Supra note at 650.

[57] Catholic Bishop of Balanga v. Court of Appeals, G.R. No. 12519, 14 November 1996, 264 SCRA 181, 190, citing Section 16(b), Rule 46 of the Rules of Court and Hernandez v. Andal, 78 Phil. 198.

[58] Saura Import and Export Co., Inc. v. Philippine International Surety Co., Inc., No. L-15184, 31 May 1963, 8 SCRA 143; Miguel v. Court of Appeals, No. L-20274, 30 October 1969, 29 SCRA 760; Sociedad Europea de Financion, S.A. v. Court of Appeals, G.R. No. 75787, 21 January 1991, 193 SCRA 105; Larobis v. Court of Appeals, 220 SCRA 639, G.R. No. 104189, 30 March 1993; Logronio v. Talisco, 312 SCRA 52 (1999).

[59] Supra note 48 at 191-192, citations omitted.

[60] Bobis v. Court of Appeals, G.R. No. 113796, 14 December 2000, 348 SCRA 23, 28, citing Ruiz v. Court of Appeals, 201 SCRA 577 (1991).

[61] No. L-29080, 174 August 1976, 72 SCRA 326, 343-344.

[62] Supra note 3.

[63] RTC Records, p. 53.

[64] Id. at 13. The acronym RT stands for "Reconstituted Title." See GLRO Circular No. 6 (R.D. – 3) dated 05 August 1946.

[65] Id. at 64.

[66] Id. at 62.

[67] The two deeds were notarized on the same day as indicated by their consecutive numbers in the notarial book of the same notary public.

[68] Heirs of Eulogio Ragua v. Court of Appeals, G.R. Nos. 88521-22, 31 January 2000, 324 SCRA 7, 23 citing Strait Times v. Court of Appeals, 294 SCRA 714 (1998).

[69] Sec. 6, Rep. Act. No. 26.

[70] Serra Serra v. Court of Appeals, G.R. No. 34080, 22 March 1991, 195 SCRA 482.

[71] Rollo, p. 69.

[72] Id. at 70.

[73] Id. at 89.

[74] Section 4, Rule 16.

[75] The text of the Manifestation of the Register of Deeds reads:

COMES NOW defendant Register of Deeds of Cavite province and unto this Honorable Court respectfully alleges:

That in an Order dated March 21, 1995, herein defendant was directed to show cause why petition for Mandamus should not be granted;

That with due respect to this Honorable Court, defendant respectfully prays this Honorable Court that Plaintiff first exhaust administrative remedy under the doctrine of exhaustion of administrative remedy;

That before resorting to Mandamus, plaintiff must avail of the remedy provided for by law which is Section 117 of Presidential Decree 1529;

That the registration of the deed of sale involving TCT Nos. T-2292 and T-27163 is held in abeyance because herein defendant elevated the matter to the Land Registration Authority for Resolution as per letter dated March 15, 1995, copy of which is herewith attached as Annex "A" for reasons stated therein;

That lately, the Register of Deeds received a letter dated March 26, 1995 xerox herewith attached as Annex "B" from Atty. Anthony R. Inventado informing us that his client, HI-TONE ELECTRONICS CORPORATION is the registered owner of Lot 5765, the same lot which is covered by TCT No. T-2292, one of the titles subject to the petition, a situation wherein one and the same lot is covered by 2 certificates of titles.

Premises considered this manifestation is submitted for the information and appraisal by this Honorable Court. (Rollo, p. 76.)

[76] The text of the letter reads:

There are enclosed herewith xerox copies of two deeds of sale for a ruling on the doubt entertained with regard to the proper step to be taken concerning the registrability of the same, namely:

- Deed of sale involving TCT No. T-27163 executed by Benjamin Agrabiador in favor of Baikal Realty Corporation.
- Deed of sale involving TCT No. T-2292 executed by Honorata Hernale in favor of Baikal Realty Corporation.

Upon verification from our records, TCT Nos. T-27163 and T-2292 appear to have been derived from RT-3918 and RT-1662 respectively, both of which are not on file in this registry.

Further verification in the Primary Entry Book reveals that both TCTs are not officially entered therein giving rise to suspicion about their authenticity.

Meanwhile, the registration of the above documents are held in abeyance. Rollo, p. 77.

[77] Sec. 117, P.D. No. 1529:

SEC. 117. Procedure.- When the Register of Deeds is in doubt with regard to the proper step to be taken or memorandum to be made in pursuance of any deed, mortgage or other instrument presented to him for registration, or where any party in interest does not agree with the action taken by the Register of Deeds with reference to any such instrument, the question shall be submitted to the Commissioner of Land Registration by the Register of Deeds, or by the party in interest thru the Register of Deeds.

Where the instrument is denied registration, the Register of Deeds shall notify the interested party in writing, setting forth the defects of the instrument or legal grounds relied upon, and advising him that if he is not agreeable to such ruling, he may, without withdrawing the documents from the Registry, elevate the matter by consulta within five days from receipt of notice of the denial of registration to the Commissioner of Land Registration upon payment of a consulta fee in such amount as shall be prescribed by the Commissioner of Land Registration.

The Register of Deeds shall make a memorandum of the pending consulta on the certificate of title which shall be

cancelled *motu proprio* by the Register of Deeds after final resolution or decision thereof, or before resolution, if withdrawn by petitioner.

The Commissioner of Land Registration, considering the consulta and the records certified to him after notice to the parties and hearing, shall enter an order prescribing the step to be taken or memorandum to be made. His resolution or ruling in consultas shall be conclusive and binding upon all Register of Deeds, provide, that the party in interest who disagrees with the final resolution, ruling or order of the Commissioner relative to consultas may appeal to the Court of Appeals within the period and in the manner provided in Republic Act No. 5434.

[78] *Supra* note 24.

[79] Rollo, p. 93. Hi-Tone's Motion for Leave to Intervene and Admit Opposition filed on 31 March 1995 is the second for intervention it filed. Respondent judge denied the first motion in the first of three orders dated 29 March 1995, wherein he also reset Hi-Tone's second motion for intervention to 20 April 1995.

[80] *Supra* note 3.

[81] RTC Records, p. 37.

[82] *Manalo v. Court of Appeals*, G. R. No. 141297, 08 October 2001, 366 SCRA 752, 766 (2001), citing *First Philippine Holdings Corporation v. Sandiganbayan*, 253 SCRA 30 (1996).

[83] Rollo, p. 57.

[84] *Ibid.*

[85] *Manalo v. Court of Appeals*, G.R. No. 141297, 08 October 2001, 366 SCRA 752, 757.

[86] REVISED RULES OF CIVIL PROCEDURE, Rule 19, Section 2.

[87] RTC Records, p. 26.

[88] *Id.* at 139.

[89] Rollo, p. 142.

[90] RTC Records pp. 148-155.

[91] No. L-45168, 25 September 1979, 93 SCRA 238.

[92] *Id.* at 246.

[93] *Esconde v. Barlongay*, No. L-67583, 13 July, 152 SCRA 603, 611.

[94] *Walstrom v. Mapa, Jr.*, G.R. No. 38387, 29 January 1990, 181 SCRA 431, 442.

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