

IN RE: RECONSTITUTION OF TRANSFER CERTIFICATES OF TITLE NOS. 303168 AND 303169 AND ISSUANCE OF OWNER'S DUPLICATE CERTIFICATES OF TITLE IN LIEU OF THOSE LOST, ROLANDO EDWARD G. L...

G.R. No. 156797. July 06, 2010

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

Petitioner Rolando Edward Lim (Lim) seeks to reverse the decision rendered on November 23, 2000 in LRC Case No. Q-11099 (98) by the Regional Trial Court (RTC), Branch 226, in Quezon City,[1] dismissing his petition for judicial reconstitution of Transfer Certificate of Title (TCT) No. 303168 and TCT No. 303169 of the Registry of Deeds for Quezon City, and for the issuance of owner's duplicate copies of said TCTs upon a finding that Lim was guilty of forum-shopping. The RTC likewise denied Lim's motion for reconsideration.

We hold that the dismissal was unwarranted and arbitrary for emanating from an erroneous application of the rule against forum shopping. Thus, we undo the dismissal and reinstate the application for judicial reconstitution.

Antecedents

On December 29, 1998, Lim filed in the RTC his petition for judicial reconstitution of TCT No. 303168 and TCT No. 303169 of the Registry of Deeds for Quezon City, and for the issuance of owner's duplicate copies of said TCTs. He alleged that he was a registered co-owner of the parcels of land covered by the TCTs, and that he was filing the petition for the beneficial interest of all the registered owners thereof; that the original copies of the TCTs kept in the custody of the Registry of Deeds for Quezon City had been lost or destroyed as a consequence of the fire that had burned certain portions of the Quezon City Hall, including the Office of said Registry of Deeds, on July 11, 1988; that the originals of the owner's duplicates of the TCTs kept in his custody had also been lost or destroyed in a fire that had gutted the commercial establishment located at 250 Villalobos Street, Quiapo, Manila on February 24, 1998; and that no co-owner's, mortgagee's, or lessee's TCTs had ever been issued.

The petition prayed thus:

(1) to declare null and void, the originals of the OWNER'S DUPLICATE of TRANSFER CERTIFICATE OF TITLE nos. 303168 and 303169 which are lost;

(2) xxx after due adjudication and hearing, order and direct the Register of Deeds for Quezon City to reconstitute the original copy of Transfer Certificate Title Nos. 303168 and 303169 in the name of the registered owners, in exactly the same terms and conditions and on the basis of (i) the copies of the same Certificates of Title as previously issued by the Register of Deeds for Quezon City attached to the petition and (ii) the separate relocation plans and technical descriptions pertaining to the real estate properties covered by the Transfer Certificates of Title No. 303168 and 303169, duly approved by the Lands Management Services of the Department of Environmental and Natural Resources and once accomplished;

(3) the Registry of Deeds for Quezon City be further ordered and directed to issue OWNER'S DUPLICATES of the reconstituted Certificates of Title to the Petitioner in lieu of the ones that were lost and/or destroyed.[2]

On April 27, 1999, the RTC issued an order, setting the petition for hearing on September 3, 1999. As the RTC required, a copy of the order was published in the Official Gazette on July 19, 1999 and July 26, 1999; and posted at the main entrance of the Quezon City Hall, and in other specified places. The Office of the Register of Deeds for Quezon City, the Land Registration Authority (LRA), the Department of Environment and Natural Resources, the Office of the City Attorney of Quezon City, the Office of the City Prosecutor of Quezon City, the Office of the Solicitor General, and the owners of the adjoining properties were each similarly duly furnished a copy of the order.

On October 15, 1999, when the petition was called for hearing, no oppositors appeared despite notice. Whereupon, Lim was allowed to present evidence ex parte before the Branch Clerk of Court whom the RTC appointed as commissioner for that purpose.

On November 4, 1999, Lim formally offered his documentary exhibits to prove: (a) his compliance with the jurisdictional requirements; (b) his authority to represent the registered co-owners of the parcels of land covered by the TCTs; (c) his and his wife's co-ownership of the parcels of land; (d) the facts and circumstances surrounding the loss of the originals of the owner's duplicate copies; and (e) the fact that the TCTs were among the records burned during the fire that razed the Quezon City Hall.

On August 23, 2000, the RTC received the report from the LRA that relevantly stated:

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(2) Our record shows that Transfer Certificates of Title Nos. 303168 and 303169, covering Lot 7, Block 586 and Lot 5, Block 585 respectively, both of the subdivision plan Psd-38199 are also applied for reconstitution of titles under Administrative Reconstitution Proceedings, (Republic Act 6732). The aforesaid TCTs are included in Administrative Reconstitution Order No. Q-577 (98) dated November 3, 1998, however, they were not reconstituted administratively, it appearing that their owner's duplicate were likewise lost.[3]

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On the basis of the LRA report, the RTC dismissed Lim's petition on November 23, 2000, viz:

In view of the report of the LRA that the subject titles are also applied for reconstitution of titles under Administrative Reconstitution Proceedings, the Court resolves to dismiss the instant petition, it appearing that there is forum-shopping in the instant case, considering further the strict requirements of the law on the reconstitution of titles.

Petitioner failed to disclose that he also applied for administrative reconstitution and in fact stated in his Petition that:

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- To the best of the Petitioner's knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or any other tribunal or agency; and

- If the Petitioner should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals or any other tribunal or agency, the Petitioner undertakes to report that fact within five (5) days therefrom to this Court wherein the original pleading and Sworn Certification contemplated herein has been filed.

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WHEREFORE, premises considered, the instant action is hereby DISMISSED.[4]

Lim's motion for reconsideration filed on January 3, 2001 was denied for lack of merit.

Hence, this appeal directly to the Court via petition for review on certiorari.

Issues

Lim poses several questions of law, namely: [5]

I.

Whether or not the subsequent filing by the petitioner of his petition for judicial reconstitution of the originals of Transfer Certificates of Title Nos. 303168 and 303169 after the said loss of the exclusive sources from which certificates of title may be administratively reconstituted under Republic Act No. 6732 is the proper legal alternative under Section 110 of Presidential Decree No. 1529 and is in accordance with the procedure under Republic Act No. 26;

II.

Whether or not under the stated facts and circumstances, petitioner can be deemed to have engaged in forum shopping;

III.

Whether or not under the stated facts and circumstances, the non-disclosure by the petitioner of the previous filing of the application for administrative reconstitution of the originals of Transfer Certificates of Title Nos. 303168 and 303169 in his Certification against Forum Shopping incorporated in the petition for judicial reconstitution is a violation of Section 5, Rule 7 of the 1997 Rules of Civil Procedure; and

IV.

Whether or not the petitioner, who had no fault at all in the destruction of the original certificates of title safekept in the Registry of Deeds for Quezon City may be unjustly deprived of his proprietary right to obtain and possess reconstituted certificates of title over the real estate properties covered by Transfer Certificates of Title Nos. 303168 and 303169 specially where he complied with all the strict requirements of judicial reconstitution under Presidential Decree No. 1529 and in accordance with the procedure under and requirements of Republic Act No. 26.

The foregoing issues may be restated thus: Did the RTC correctly dismiss the petition of Lim on the ground of forum shopping?

Ruling

Forum shopping is the act of a party litigant against whom an adverse judgment has been rendered in one forum seeking and possibly getting a favorable opinion in another forum, other than by appeal or the special civil action of certiorari, or the institution of two or more actions or proceedings grounded on the same cause or supposition that one or the other court would make a favorable disposition.[6] Forum shopping happens when, in the two or more pending cases, there is identity of parties, identity of rights or causes of action, and identity of reliefs sought.[7] Where the elements of *litis pendentia* are present, and where a final judgment in one case will amount to *res judicata* in the other, there is forum shopping.[8] For *litis pendentia* to be a ground for the dismissal of an action, there must be: (a) identity of the parties or at least such as to represent the same interest in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same acts; and (c) the identity in the two cases should be such that the judgment which may be rendered in one would, regardless of which party is successful, amount to *res judicata* in the other.[9]

For forum shopping to exist, both actions must involve the same transaction, same essential facts and circumstances and must raise identical causes of action, subject matter and issues. Clearly, it does not exist where different orders were questioned, two distinct causes of action and issues were raised, and two objectives were sought.[10]

The petition has merit.

Lim was not guilty of forum shopping, because the factual bases of his application for the administrative reconstitution of the TCTs and of his petition for their judicial reconstitution, and the reliefs thereby sought were not identical.

When he applied for the administrative reconstitution in the LRA on July 21, 1988,[11] he still had his co-owner's duplicate copies of the TCTs in his possession, but by the time the LRA resolved his application on November 3, 1998, allowing the relief prayed for,[12] his co-owner's duplicate copies of the TCTs had meanwhile been destroyed by fire on February 24, 1998, a fact that he had duly reported in an affidavit dated May 29, 1998 presented on June 1, 1998 to the Office of the Register of Deeds for Quezon City.[13] The loss by fire was corroborated by the certification issued by the Chief of Fire District I of Manila to the effect that the commercial establishment for Cheer-up Foods Corporation, the petitioner's company, had been gutted by fire on February 24, 1998.[14] Thus, the intervening loss of the owner's duplicate copies that left the favorable ruling of the LRA no longer implementable gave rise to his need to apply for judicial reconstitution in the RTC pursuant to Section 12 of Republic Act No. 26.[15]

The RTC should have easily discerned that forum shopping did not characterize the petitioner's resort to judicial reconstitution despite the previous proceeding for administrative reconstitution. Although the bases for the administrative reconstitution were the owner's duplicate copies of TCT No. 303168 and TCT No. 303169, those for judicial reconstitution would be other documents that "in the judgment of the court, are sufficient and proper basis for reconstituting the lost or destroyed certificate of title." [16] The RTC should have also noted soon enough that his resort to judicial reconstitution was not because his earlier resort to administrative reconstitution had been denied (in fact, the LRA had resolved in his favor),[17] but because the intervening loss to fire of the only permissible basis for administrative reconstitution of the TCTs mandated his resort to the RTC.[18] Indeed, he came to court as the law directed him to do, unlike the litigant involved in the undesirable practice of forum shopping who would go from one court to another to secure a favorable relief after being denied the desired relief by another court.[19]

Neither did the petitioner's omission from the petition for judicial reconstitution of a reference to the application for administrative reconstitution in the LRA justify the dismissal of the petition. The petition for judicial reconstitution and the application for administrative reconstitution addressed different situations and did not have identical bases. Besides, only the RTC could grant or deny any relief to him at that point.

The *motu proprio* dismissal of the petition for judicial reconstitution by the RTC although the Government did not file a motion to dismiss grounded on the petitioner's supposed failure to comply with the contents of the required certification was yet another glaring error of the RTC. A violation of the rule against forum-shopping other than a willful and deliberate forum shopping did not authorize the RTC to dismiss the proceeding without motion and hearing. Specifically, the submission of a false certification of non-forum shopping did not automatically warrant the dismissal of the proceeding, even if it might have constituted contempt of court, for Section 5, Rule 7, of the 1997 Rules of Civil Procedure, has been clear and forthright, to wit:

Section 5. Certification against forum shopping.--The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto

and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as cause for administrative sanctions.

In *Young v Keng Seng*,^[20] which involved a false certification of non-forum shopping, the Court cogently held that:

The foregoing certification is obviously inaccurate, if not downright false, because it does not disclose the filing of the First Case. Had this violation been appropriately brought up in the Motion to Dismiss, it could have resulted in the abatement of the Second case.

Nonetheless, strengthening our ruling on the First issue, we hold that substantial justice requires the resolution of the present controversy on its merits.

By its outright and undiscerning application of the sanction against forum shopping, the RTC plunged into an unwanted limbo the petitioner's and his co-owners' ownership of the realties. A modicum of care and discernment could have avoided such a prejudicial result. We now put an end to such limbo by cautioning all judges to exercise care and discernment in their enforcement of the rule against forum shopping, that they may not unduly trench on the valuable rights of litigants.

WHEREFORE, the decision dated November 23, 2000 is set aside.

The petition for the judicial reconstitution of the petitioner's Transfer Certificate of Title No. 303168 and Transfer Certificate of Title No. 303169 of the Registry of Deeds for Quezon City, and for the issuance of the owner's duplicate copies thereof, is reinstated.

The Regional Trial Court, Branch 226, in Quezon City is directed to forthwith resume proceedings thereon, and to render its decision on the merits as soon as practicable.

No pronouncement on costs of suit.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Abad,^[*] and Villarama, Jr., JJ., concur.

[*] Additional member per Special Order No. 843 dated May 17, 2010.

[1] Penned by Presiding Judge Leah S. Domingo-Regala.

[2] Rollo, pp. 61-62.

[3] Id., pp. 39-40.

[4] *Id.*, p. 40.

[5] *Id.*, pp. 22-23.

[6] *Government Service Insurance System v. Bengson Commercial Builders, Inc.*, G.R. No. 137448 & 141454, January 31, 2002, 375 SCRA 431, 439; *Roxas v. Court of Appeals*, G.R. No. 139337, August 15, 2001, 363 SCRA 207, 217; *MSF Tire and Rubber, Inc. v. Court of Appeals*, G.R. No. 128632, August 5, 1999, 311 SCRA 784, 790.

[7] *R & E Transport, Inc. v. Latag*, G.R. No. 155214, February 13, 2004, 422 SCRA 698, 710; *Veluz v. Court of Appeals*, G.R. No. 139951, November 23, 2000, 345 SCRA 756, 764; *International School, Inc. v. Court of Appeals*, G.R. No. 131109, June 29, 1999, 309 SCRA 474, 480; *First Philippine International Bank v. Court of Appeals*, 322 Phil 280, 306.

[8] *Cooperative Development Authority v. Dolefil Agrarian Reform Beneficiaries Cooperative, Inc.* G.R. No. 137489, May 29, 2002, 382 SCRA 552, 575; *Republic v. Carmel Development, Inc.* G.R. No. 142572, February 20, 2002, 377 SCRA 459, 471; *R & M General Merchandise, Inc. v. Court of Appeals*, G.R. No. 144189, October 5, 2001, 366 SCRA 679, *Prubankers Association v. Prudential Bank and Trust Company*, G.R. No. 131247, January 12, 1997, 302 SCRA 74, 83.

[9] *Cruz v. Caraos*, G.R. No. 138208, April 23, 2007, 521 SCRA 510; *R & M General Merchandise, Inc. v. Court of Appeals*, G.R. No. 144189, October 5, 2001, 366 SCRA 679; *Cebu International Finance Corp. v. Court of Appeals*, G.R. No. 123031, October 12, 1999, 316 SCRA 488.

[10] *Yulienco v. Court of Appeals*, G.R. No. 131692, June 10, 1999, 308 SCRA 206.

[11] *Rollo*, pp. 52-53.

[12] The order of the LRA states:

WHEREFORE, pursuant to Republic Act 6732 and LRA Circular No. 13 dated 26 July 1989, THE REGISTER OF DEEDS OF QUEZON CITY IS HEREBY DIRECTED TO RECONSTITUTE the original of TCT Nos. 374983, 303168, 303169, 115896, 383006, x x x, based on the owner's duplicates certificates of titles including all subsisting restrictions, liens and encumbrances and to annotate all deeds, documents and other papers and court orders, notices of attachment, Lis Pendens and other adverse claims which were presented and duly noted in the entry books and are intact in the Office of the Registry of Deeds, but the registration thereof were not accomplished at the time the certificates of titles were lost or destroyed if any, provided that no other certificates of titles covering the same parcels of land exist in the record of said registry and provided further that after reconstitution, the owner's duplicates or co-owner's duplicate exhibited as basis for the reconstitution shall be surrendered to the Register of Deeds pursuant to Section 5 of Republic Act 6732.

SO ORDERED.

See Record, Vol. I, pp. 205-206.

[13] Record, Vol. I, pp. 83 and 84.

[14] *Id.*, p. 86.

[15] The provision states:

Section 12. Petitions for reconstitution from sources enumerated in sections 2(c), 2(d), 2(e), 2(f), 3(c), 3(d), 3(e) and/or 3(f) of this Act, shall be filed with the proper Court of First Instance [now Regional Trial Court], by the

registered owner, his assigns, or any person having an interest in the property. The petition shall state or contain, among other things, the following: (a) that the owner's duplicate of the certificate of title had been lost or destroyed; (b) that no co-owner's mortgagee's or lessee's duplicate had been issued, or, if any had been issued, the same had been lost or destroyed; (c) the location, area and boundaries of the property; (d) the nature and description of the buildings or improvements, if any, which do not belong to the owner of the land, and the names and addresses of the owners of such buildings or improvements; (e) the names and addresses of the occupants or persons in possession of the property, of the owners of the adjoining properties and all persons who may have any interest in the property; (f) a detailed description of the encumbrances, if any, affecting the property; and (g) a statement that no deeds or other instruments affecting the property have been presented for registration, or, if there be any, the registration thereof has not been accomplished, as yet. All the documents, or authenticated copies thereof, to be introduced in evidence in support of the petition for reconstitution shall be attached thereto and filed with the same: Provided, That in case the reconstitution is to be made exclusively from sources enumerated in section 2(f) of 3(f) of this Act, the petition shall be further be accompanied with a plan and technical description of the property duly approved by the Chief of the General Land Registration Office, or with a certified copy of the description taken from a prior certificate of title covering the same property.

[16] Republic Act No. 26 (An Act Providing A Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed) provides:

Section 3. Transfer certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:

- (a) The owner's duplicate of the certificate of title;
- (b) The co-owner's mortgagee's, or lessee's duplicate of the certificate of title;
- (c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;
- (d) The deed of transfer or other document, on file in the registry of deeds, containing the description of the property, or an authenticated copy thereof, showing that its original had been registered, and pursuant to which the lost or destroyed transfer certificate of title was issued;
- (e) A document, on file in the registry of deeds, by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original had been registered; and
- (f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

[17] The dispositive portion of the LRA's Order dated November 3, 1998 reads:

WHEREFORE, pursuant to Republic Act 6732 and LRA Circular No. 13 dated 26 July 1989, THE REGISTER OF DEEDS OF QUEZON CITY IS HEREBY DIRECTED TO RECONSTITUTE the original of TCT Nos. 374983, 303168, 303169, 115896, 383006, x x x, based on the owner's duplicates certificates of titles including all subsisting restrictions, liens and encumbrances and to annotate all deeds, documents and other papers and court orders, notices of attachment, Lis Pendens and other adverse claims which were presented and duly noted in the entry books and are intact in the Office of the Registry of Deeds, but the registration thereof were not accomplished at the time the certificates of titles were lost or destroyed if any, provided that no other certificates of titles covering the same parcels of land exist in the record of said registry and provided further that after

reconstitution, the owner's duplicates or co-owner's duplicate exhibited as basis for the reconstitution shall be surrendered to the Register of Deeds pursuant to Section 5 of Republic Act 6732.

SO ORDERED.

Record, Vol. I, pp. 205-206.

[18] Section 12, Republic Act No. 26, *supra*, note 15.

[19] *Philippine National Construction Corporation v. Dy*, G.R. No. 156887, October 3, 2005, 472 SCRA 1; *Roxas v. Court of Appeals*, *supra*, note 6.

[20] G.R. No. 143464, March 5, 2003, 398 SCRA 629.

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