

LIGAYA, CHARITO, PARALUMAN AND EFREN, ALL SURNAMED BIGLANG-AWA, PETITIONERS, V.S. PHILIPPINE TRUST COMPANY, RESPONDENT.

G.R. NO. 158998. March 28, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Assailed in the present petition for review on certiorari under Rule 45 of the Rules of Court is the Decision[1] of the Court of Appeals (CA) promulgated on April 30, 2003 which reversed and set aside the Order dated August 14, 2001 of the Regional Trial Court (RTC) of Quezon City, Branch 93; and the CA Resolution [2] of July 4, 2003, denying the Motion for Reconsideration of Ligaya, Charito, Paraluman and Efren, all surnamed Biglang-Awa (petitioners).

The facts of the case are as follows:

On November 22, 2000, herein petitioners, together with their mother, Encarnacion Cleofas Vda. de Biglang-Awa (Encarnacion), filed a Complaint[3] for declaration of nullity of deeds, cancellation of titles, reconveyance and recovery with damages before the RTC of Quezon City against Roberth B. Tolentino (Tolentino), Philippine Trust Co. (respondent) and the Register of Deeds of Quezon City.

In the complaint, petitioners and Encarnacion alleged that they are the legitimate owners of eight parcels of land, all located along Quirino Highway, Novaliches Quezon City, to wit:

1)

Lot 884-B, Psd-00-043766, covered by Transfer Certificate of Title (TCT) No. N-181964, in the name of Ligaya Biglang-Awa (Ligaya);

2)

Lot 884-C, Psd-00-043766, covered by TCT No. N-181965, in the name of Paraluman Biglang-Awa (Paraluman);

3)

Lot 884-D, Psd-00-043766, covered by TCT No. N-181966, in the name of Hector Biglang-Awa (Hector);

4)

Lot 884-E, Psd-00-043766, covered by TCT No. N-181967, in the name of Efren Biglang-Awa (Efren), and

5)

Lots 884-F, 884-G, 884-H and 884-I, all of Psd-00-043766 and covered by TCT Nos. N-181968, N-181969, N-181970 and N-181971, respectively, all of which are in the name of Encarnacion.

Petitioners averred that in 1977, without the knowledge and consent of Encarnacion and through fraudulent manipulations, misrepresentations and the use of falsified documents, Tolentino succeeded in having four of the eight subject parcels of land, which are in the name of Encarnacion, encumbered by way of mortgage to secure a loan made by Tolentino with respondent; that on separate occasions in 1998 and 2000, and using similar fraudulent manipulations, misrepresentations and use of falsified documents, Tolentino was able to secure in his name new Torrens titles over all the eight subject parcels of land.

Subsequently, petitioners caused the annotation of a notice of lis pendens on all the titles registered in the name of Tolentino.

On January 3, 2001, Tolentino filed a Motion to Dismiss[4] on the ground that Ligaya of lack capacity to sue in behalf of the other plaintiff, and that she has no cause of action considering that she has sold her property to Tolentino.

On January 4, 2001, Encarnacion filed a Notice of Dismissal[5] claiming that the subject complaint was filed without her permission and/or conformity; that the four parcels of land, titled under her name, and which formed part of the subject matter of the said complaint, were solely her own; and that she freely and satisfactorily sold them to Tolentino.

On even date, respondent filed its Answer with Compulsory Counterclaim[6] praying that the complaint be dismissed for failure to state a cause of action against it, and for failure of Encarnacion to verify and certify the complaint against it.

On February 2, 2001, the RTC issued an Order, to wit:

ACCORDINGLY, the court confirms plaintiff Encarnacion Cleofas vda. de Biglang-Awa's notice of dismissal pursuant to Section 1, Rule 17 of the 1997 Rules of Civil Procedure as amended.

The action therefore, insofar as plaintiff Encarnacion Cleofas vda. De Biglang-Awa only and all the defendants are concerned, is DISMISSED with prejudice. Let her name be deleted from the caption of the complaint.

With this dismissal, there is no further legal obstacle to the cancellation of the notice of lis pendens annotated on TCT Nos. N-198629; N-198630, N-198631; and N-198632, all in the name of defendant Roberth B. Tolentino.

SO ORDERED.[7] (Emphasis supplied)

Thereafter, Tolentino filed a Motion for Issuance of a Certificate of Finality of the Court's Order of February 2, 2001.

On February 19, 2001, herein petitioners filed a Motion for Reconsideration of the Order of the RTC dated February 2, 2001.[8]

Subsequently, petitioners filed a Motion for Leave to Amend Complaint and to Admit Attached Amended Complaint.[9] The Amended Complaint seek to implead Encarnacion petitioner and a sister Liwayway Biglang-Awa (Liwayway) as party defendants. Petitioners contend that they, together with Encarnacion and Liwayway are co-owners, pro-indiviso, of the subject parcels of land; that through manipulations and misrepresentations, Tolentino, Encarnacion and Liwayway were able to secure a partition of and titles over the disputed properties.

On April 16, 2001, the RTC issued a Resolution pertinent portions of which read as follows:

The following incidents thus, have been submitted to the court for resolution:

- 1) Motion For Issuance of a Certificate of Finality of the court's order of February 02, 2001;
- 2) Motion for Reconsideration of the February 02, 2001 order;
- 3) Motion to Dismiss filed by Tolentino; and
- 4) Motion For Leave to Amend Complaint

On The Motion For Issuance of a Certificate of Finality

The records show that plaintiffs, other than Encarnacion Cleofas, filed their motion for reconsideration on February 19, 2001, which is the 15[th] day counting from February 02, 2001, of the 15-day period within which a party aggrieved may either appeal or move to reconsider a final order. Thus, a motion for reconsideration having been filed seasonably, Tolentino's motion for a certificate of finality, perforce, must be denied as the court hereby denies the same.

On The Motion For Reconsideration

The court notes that the plaintiff's motion for reconsideration was filed not by Encarnacion Cleofas but by her co-plaintiffs. To the court, the notice of dismissal filed by plaintiff Encarnacion Cleofas Vda. de Biglang Awa is something that is personal to her. The same having been filed pursuant to Section 1 of Rule 17, the court's action on her initiative is limited to merely confirming said dismissal. From this confirmatory order of the court only she and she alone may move to reconsider or move for any other reliefs.

Her co-plaintiffs do not have the standing to ask for any relief arising from the court's action on her notice to dismiss her complaint. This is especially true considering that the allegations on the complaint mainly concern her only and the defendants. Whatever rights her co-plaintiffs may have with respect to the complaint will not at all be prejudiced by the dismissal ordered upon her notice. The motion for reconsideration must likewise be denied as it is hereby denied.

On The Motion to Dismiss Filed by Tolentino

Insofar as the remaining plaintiffs are concerned, it would appear that whatever cause of action they may still have against the defendants has been seriously impaired, if not negated, by the notice of dismissal by plaintiff Encarnacion Cleofas and the apparent lack of standing to sue by plaintiff Ligaya Biglang-Awa on her behalf as well as of her capacity to sue in behalf of her co-plaintiffs.

With respect to defendant PTC, it is clear that the allegations of the complaint, insofar as the plaintiffs are concerned, fail to state a cause of action. It is plaintiff Encarnacion Cleofas Vda. de Biglang Awa who had a cause of action against PTC but this has been done away with by reason of her notice of dismissal.

The court also notes that the complaint fails to allege the value of the real property that is the subject of the action and for which docket fees ought to be assessed and paid for the court to acquire jurisdiction over the complaint. The non-payment of the appropriate docket fees is another ground for the dismissal of the complaint.

The court therefore finds the motion to dismiss by Tolentino as well as by PTC to be in order. Thus, these motions are granted.

On The Motion For Leave To Amend Complaint

With the grant of the motion to dismiss, the consequent denial of the motion for leave to amend complaint ought to follow but there is need for some discussion on the matter.

During the hearing on the notice of dismissal and motion to dismiss, plaintiff Encarnacion Cleofas Vda de Biglang Awa unequivocally told the court among others, that she never met plaintiff's counsel before and that

she never authorized nor engaged counsel to file the present complaint. Thus, her notice to dismiss the action. This repudiation of a presumed client-attorney relationship is quite disturbing to the court. It indicates that some "short-cuts" or "cutting corners," to put it mildly, may have been resorted to by counsel appearing for the plaintiffs.

In light of the foregoing, the motion for leave to amend complaint filed by the same counsel for the plaintiffs would not appear to be deserving of a favorable response from the court. Moreover, the amendment sought to be made appears to have drastically altered the causes of action of the parties plaintiffs and parties defendants between and among themselves.

It is true that an unwilling party plaintiff may be joined as a defendant but this must be set out at the inception of the complaint. Even if, for the sake of argument, that this joinder may be made via an amendment, the allegations of the complaint do not clearly indicate that the case involves a party who refuses to give her consent to be joined as a plaintiff. As revealed in open court during the hearing on the incidents, the plaintiff Encarnacion Cleaofas Vda. de Biglang Awa has not been made aware at all of the filing of the complaint and of the reasons therefore. It may not therefore be correctly said that she was an unwilling co-plaintiff.

Given the prevailing circumstances, the sound exercise of discretion would be to withhold the grant of the relief prayed for.

WHEREFORE, the foregoing premises considered, the court resolves to:

- 1) deny defendant Tolentino's motion for issuance of a certificate of finality;
- 2) deny [petitioners'] motion for reconsideration
- 3) grant the [respondent's] motion to dismiss; and
- 4) deny [petitioners'] motion for leave to amend complaint.

The dismissal of the complaint is without prejudice to the commencement of any appropriate action that may be initiated by the proper party plaintiffs against the proper defendant or defendants.

The previously scheduled hearing on April 20, 2001, is therefore without any further purpose. It is accordingly cancelled.

SO ORDERED.[10] (Emphasis supplied)

On May 2, 2001, Tolentino, filed a Motion for Cancellation of Notice of Lis Pendens[11] with respect to the four parcels of land covered by TCT Nos. N-198629, N-198630, N-198631 and N-198632 derived from the TCTs of Encarnacion.

On May 3, 2001, herein petitioners filed a Motion for Reconsideration of the April 16, 2001 RTC Resolution and an Opposition to Tolentino's Motion for Cancellation of Notice of Lis Pendens.[12]Respondent filed its Opposition and Reply to petitioners' Motion for Reconsideration and Opposition. Petitioners filed their Rejoinder to Opposition and Reply.

On August 14, 2001, the RTC issued an Order denying petitioners' motion for reconsideration and Tolentino's Motion for cancellation of notice of Lis Pendens, thus:

The Resolution of April 16, 2001 is clear and comprehensive enough to be misread. Once a case is dismissed, there is nothing else left to amend. Thus, the futility of a motion to amend. Moreover, there is a peculiar ingredient in this case, as already discussed in the questioned resolution, that called for the court's exercise of discretion against an amendment. The arguments raised by the movants fail to persuade the court that a reconsideration is in order. Upon the other hand, the position taken by [respondent] PTC in its "Opposition and

Reply" is sound and well taken. The court adopts the same insofar as the reconsideration aspect is concerned.

Anent the motion to cancel the notice of lis pendens and the opposition thereto, the court finds that it may not be granted at this time in view of the clear pronouncement in the resolution of April 16, 2001 that "the dismissal of the complaint is without prejudice to the commencement of any appropriate action that may be initiated by the proper party plaintiffs against the proper defendant or defendants."

The motion for reconsideration and the motion for cancellation of notice of lis pendens are thus both resolved in the negative.

SO ORDERED.[13]

On September 19, 2001, respondent filed a motion for reconsideration[14] on the ground that RTC ---- dated February 2, 2001 declaring that there is no further legal _____ to the cancellation of the notice of lis pendens have already become final and executory.

On August 20, 2001, the RTC issued an Entry of Judgment[15] declaring that its Order of February 2, 2001 dismissing the complaint of Encarnacion had become final and executory.

On December 21, 2001, the RTC issued an Order denying respondent's Motion for Reconsideration of the RTC Order dated August 14, 2001[16] on the ground that the cancellation of the notice of lis pendens is "simply not accessible".

Unsatisfied by the August 14, 2001 and December 21, 2001 Orders of the RTC, respondent filed a petition for certiorari with the CA contending that the RTC is guilty of grave abuse of discretion when it denied the motion for cancellation of the notices of lis pendens annotated on TCT Nos. N-198629 to N-198632.[17] The case was docketed as CA-G.R. SP No. 69643.

On March 26, 2002, petitioners also filed a petition for certiorari questioning the August 14, 2001 Order of the RTC. The case was docketed as CA-G.R. SP No. 69842. The issue raised in the said petition is whether the RTC committed grave abuse of discretion when it granted Tolentino's motion to dismiss and denied petitioner's motion for leave to admit amended complaint. However, the case was dismissed by the CA via its Decision [18]promulgated on February 27, 2004, which became final and executory on August 17, 2004.[19]

Meanwhile, on April 30, 2003, the CA promulgated the presently assailed Decision with the following dispositive portion:

WHEREFORE, premises considered, the assailed Order dated August 14, 2001 insofar as it denied the cancellation of the notice of lis pendens covering TCT Nos. N-198629, N-198630, N-198631, and N-198632, and the Order dated December 21, 2001 issued by the public respondent are hereby REVERSED AND SET ASIDE. It is ordered that the notice of lis pendens annotated at the back of Transfer Certificate of Title Nos. N-198629, N-198630, N-198631, and N-198632 be immediately canceled.

SO ORDERED.[20]

Petitioners filed a Motion for Reconsideration but the same was denied by the CA via its Resolution of July 4, 2003.[21]

Hence, the present petition raising the following issues:

1) Whether or not the Court of Appeals committed an error of law in reversing and setting aside the order of the RTC dated 14 August 2001 wherein it denied the motion of Roberth B. Tolentino praying for the cancellation of the lis pendens annotated at the back of torrens titles issued in the name of Encarnacion Biglang-Awa.

2) Whether or not the Court of Appeals committed an error of law in disregarding the fact that it is [a] matter of right of the petitioners to amend their complaint prior to the submission of an answer or responsive pleading by the adverse parties

3) Whether or not the Court of Appeals committed an error of law in finding that the petitioners have no more cause of action against the respondents since petitioners have no more any "direct or indirect interest to protect." [22]

Petitioners contend that the February 2, 2001 Order of the RTC never attained finality because petitioners were able to seasonably move for its reconsideration; that in its Resolution of April 16, 2001, the RTC amended and modified its February 2, 2001 Order by ruling that "(t)he dismissal of the complaint is without prejudice to the commencement of any appropriate action that may be initiated by the proper party plaintiffs against the proper party defendant or defendants"; that the April 16, 2001 Resolution of the RTC has become final and executory because none of the defendants filed a motion for its reconsideration.

Petitioners aver that under Section 2, Rule 10 of the Rules of Court, as well as in several rulings of this Court, a party may amend his pleading once as a matter of right at any time before a responsive pleading is served; that prior to the filing of Tolentino's answer, petitioners filed an amended complaint wherein they alleged that they are co-owners of the subject parcels of land and that they have been deprived of their proper shares in the partition of the said lands through the falsifications committed by the defendants impleaded in the original and amended complaints.

Petitioners further claim that the CA erred in ruling that there is no longer any legal obstacle to effect the cancellation of the notice of lis pendens annotated on the titles covering the subject properties since petitioners do not have any interest to protect. On the contrary, petitioners claim that they will be greatly prejudiced by the cancellation of the notice of lis pendens on TCT Nos. N-198629, N-198630, N-198631, and N-198632 because they are co-owners pro-indiviso the eight parcels of land subject of the instant case; that the dismissal of Civil Case No. Q-00-42489 did not ipso facto operate as cancellation of the notice of lis pendens since such dismissal has not attained finality.

Respondent further counters that under Section 14, Rule 13 of the Rules of Court, a notice of lis pendens may be canceled after showing that the purpose of the annotation is for molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be annotated; that in the present case, the CA did not commit any error of law in ordering the cancellation of the notice of lis pendens on the subject titles as these annotations are clearly not necessary to protect the rights of petitioners.

Respondent further contends that the notice of lis pendens being ordered canceled by the CA refers to those annotated over the title to the properties which were formerly owned exclusively by Encarnacion; the order does not include the cancellation of the notice of lis pendens annotated on the titles of the properties formerly owned by petitioners; that Encarnacion's exclusive ownership of four out of the eight parcels of land subject of the complaint is confirmed by the petitioners themselves in their complaint; that it is deceptive for petitioners to continuously refer to the allegations in their amended complaint because such amended complaint was not admitted by the RTC in its Resolution dated April 16, 2001.

Respondent further argues that the complaint filed by petitioners was already dismissed by the RTC per its Orders dated February 2, 2001 and April 16, 2001; that the Order of February 2, 2001 was a "dismissal with prejudice" insofar as it affects the four properties formerly owned by Encarnacion and insofar as respondent is concerned considering that the latter was merely impleaded as a mortgagee of these properties; that the Order of the RTC dated April 16, 2001 did not amend its February 2, 2001 Order as the "dismissal without prejudice" being

contemplated by the April 16, 2001 Order refers to the remaining four properties allegedly owned by petitioners excluding those parcels of land formerly owned by Encarnacion; that the February 2, 2001 and April 16, 2001 Orders of the RTC had already become final and executory.

Lastly, respondent contends that the petition for certiorari (CA-G.R. SP No. 69842) filed by petitioners with the CA questioning the propriety of the April 16, 2001 Order of the RTC had already been dismissed by the CA and that the decision of the CA had already become final and executory.

Premised on the factual circumstances established in the present case, the basic issues to be resolved are: (1) whether the RTC should have allowed petitioners to amend their complaint against herein respondent, and (2) whether it is proper to cancel the notice of lis pendens annotated at the back of the Torrens titles issued in the name of Encarnacion.

The petition is not meritorious.

With respect to the first issue, it is true that petitioners were able to file a Motion for Reconsideration of the February 2, 2001 Order of the RTC. However, in its April 16, 2001 Resolution, the RTC denied said Motion. On petition for certiorari filed by petitioners, the CA, in its February 27, 2004 Decision in CA-G.R. SP No. 69842, affirmed the RTC Resolution of April 16, 2001. The CA Decision became final and executory on August 17, 2004.[23] The February 2, 2001 Order of the RTC dismissing the complaint, insofar only as Encarnacion and all the defendants therein, namely: Tolentino herein respondent and the Register of Deeds for Quezon City, are concerned, had become final and executory.

The Court likewise agrees that the April 16, 2001 Resolution of the RTC did not amend its February 2, 2001 Order. The subject Resolution concerns the dismissal, without prejudice, of the remaining plaintiffs' (herein petitioners) complaint, and does not in any way affect the earlier dismissal of the complaint of Encarnacion.

With respect to petitioners' right to amend their Complaint, after respondent had filed its answer, Rule 10 of the Rules of Court provides:

SEC. 2. Amendments as a matter of right. - A party may amend his pleading once as a matter of right at any time before a responsive pleading is served or, in the case of a reply, at any time within ten (10) days after it is served.

SEC. 3. Amendments by leave of court - Except as provided in the next preceding Section, substantial amendments may be made only upon leave of court. But such leave may be refused if it appears to the court that the motion was made with intent to delay. Orders of the Court upon the matters provided in this Section shall be made upon motion filed in court, and after notice to the adverse party, and an opportunity to be heard. (Emphasis Supplied)

In *Republic v. Africa*[24], this Court held that where some but not all of the defendants have answered, plaintiffs may amend their complaint once, as a matter of right, in respect to claims asserted solely against the non-answering defendants, but not as to claims asserted against the other defendants.

In the present case, prior to petitioners' filing of their Motion for Leave to Amend Complaint and to Admit Attached Amended Complaint, respondent already filed its Answer with Counterclaim. Hence, since respondent had already filed its answer, it follows that petitioners may no longer amend their complaint against the former as a matter of right. They may do so only upon leave of court, as provided under Section 3, Rule 10[25] of the same Rules, which they did by filing their Motion for Leave to Amend Complaint.

In the recent case of *Philippine Ports Authority v. William Gothong Aboitiz (WGA), Inc.*[26], this Court, in discussing the import of Section 3, Rule 10 of the Rules of Court, as amended, held that:

Interestingly, Section 3, Rule 10 of the 1997 Rules of Civil Procedure amended the former rule in such manner that the phrase "or that the cause of action or defense is substantially altered" was stricken-off and not retained in the new rules. The clear import of such amendment in Section 3, Rule 10 is that under the new rules, "the amendment may (now) substantially alter the cause of action or defense." This should only be true, however when despite a substantial change or alteration in the cause of action or defense, the amendments sought to be made shall serve the higher interests of substantial justice, and prevent delay and equally promote the laudable objective of the rules which is to secure a "just, speedy and inexpensive disposition of every action and proceeding." [27]

On the basis of the foregoing ruling, the denial of petitioners' Motion for Leave to Amend Complaint on the ground that the amendment "drastically altered the causes of action of the parties plaintiffs and parties defendants between and among themselves" is erroneous.

Nonetheless, the Court finds that the RTC correctly denied petitioners' Motion for Leave to Amend Complaint, although for a different reason.

In their original complaint, petitioners claim that the properties covered by TCT Nos. N-198629 to N-198632 were owned exclusively by Encarnacion. There was no mention whatsoever that Encarnacion's titles over these parcels of land were obtained through fraud or any other illegal means. However, in their Amended Complaint, where petitioners sought to make Encarnacion and Liwayway as defendants, they subsequently seek the nullification of Encarnacion's titles over the abovementioned parcels of land by alleging that petitioners together with Encarnacion and Liwayway are co-owners of all the subject that and the titles thereto were obtained on the basis of falsified subdivision agreements and subdivision plans.

It should be noted, however, that the basis of the February 2, 2001 Order and April 16, 2001 Resolution of the trial court, both of which had already become final and executory, is its finding that the four parcels of land covered by TCT Nos. N-198629 to N-198632 were exclusively owned by Encarnacion. Since the February 2, 2001 Order and the April 16, 2001 Resolution of the RTC had already become final and executory, petitioners are already precluded from claiming otherwise. If petitioners are permitted to amend their complaint they would, in effect, alter a factual conclusion of the RTC which it used as its basis in rendering its February 2, 2001 Order and April 16, 2001 Resolution. Settled is the rule that a decision that has acquired finality becomes immutable and unalterable. [28] A final judgment may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law; and whether it will be made by the court that rendered it or by the highest court in the land. [29] The only exceptions to this rule are the correction of (1) clerical errors, (2) the so-called nunc pro tunc entries which cause no prejudice to any party, and (3) void judgments. [30] None of these exceptions are present in the instant case.

Moreover, the RTC already dismissed the Complaint filed by petitioners for lack of jurisdiction over the action because petitioners failed to pay the appropriate docket fees. Petitioners did not appeal this ruling of the RTC. In any case, such order of dismissal had already become final and executory pending resolution of the present petition. On this basis, the Motion for Leave to Amend Complaint is rendered moot. As to the second issue, petitioners had categorically declared in their original Complaint that the parcels of land covered by TCT Nos. N-198629 to N-198632 were previously owned exclusively by Encarnacion. On this basis, the RTC correctly ruled that petitioners have no cause of action against respondent. In its Order of February 2, 2001, the RTC affirmed Encarnacion's Notice of Dismissal of her complaint against the defendants therein. The RTC also ruled that by reason of such dismissal, there is no longer any legal obstacle to the cancellation of the notice of lis pendens annotated on TCT Nos. N-198629 to N-198632. However, in its August 14, 2001 Order, the RTC denied Tolentino's Motion for Cancellation of Notice of Lis Pendens which are annotated on the abovementioned TCTs. Nonetheless, the CA, in its presently assailed Decision reversed the August 14, 2001 Order of the RTC and

directed the cancellation of the notice of lis pendens annotated on the subject TCTs.

The Court agrees with the CA. The Court's disquisition in *Romero v. Court of Appeals*[31] is instructive, to wit:

Lis pendens, which literally means pending suit, refers to the jurisdiction, power or control which a court acquires over property involved in a suit, pending the continuance of the action, and until final judgment. Founded upon public policy and necessity, lis pendens is intended to keep the properties in litigation within the power of the court until the litigation is terminated, and to prevent the defeat of the judgment or decree by subsequent alienation. Its notice is an announcement to the whole world that a particular property is in litigation and serves as a warning that one who acquires an interest over said property does so at his own risk or that he gambles on the result of the litigation over said property.

The filing of a notice of lis pendens has a two-fold effect: (1) to keep the subject matter of the litigation within the power of the court until the entry of the final judgment to prevent the defeat of the final judgment by successive alienations; and (2) to bind a purchaser, bona fide or not, of the land subject of the litigation to the judgment or decree that the court will promulgate subsequently.

While the trial court has inherent power to cancel a notice of lis pendens, such power, meanwhile, is exercised under express provisions of law. As provided for by Sec. 14, Rule 13 of the 1997 Rules of Civil Procedure, a notice of lis pendens may be canceled on two grounds: (1) if the annotation was for the purpose of molesting the title of the adverse party, or (2) when the annotation is not necessary to protect the title of the party who caused it to be recorded.[32]

In the instant case, it is established that petitioners have no interest over the properties covered by TCT Nos. N-198629 to 198632. Hence, the annotation of notices of lis pendens on the abovementioned titles is not necessary to protect petitioners' individual titles over the other properties involved in their complaint.

Furthermore, as the complaint of petitioners was already dismissed without prejudice, and since petitioners had not filed any other case involving the subject properties, there is no longer any pending suit to speak of.

Hence, the CA did not commit any error when it ordered the cancellation of the notices of lis pendens annotated at the back of TCT Nos. N-198629 to N-198632.

Lastly, petitioners insist on their allegations they set forth in their Amended Complaint that they are pro-indiviso owners of the subject parcels of land and that Encarnacion and Tolentino submitted a falsified Subdivision Agreement and Subdivision Plan resulting in the partition of and the issuance of title over the subject properties. Suffice it to say, however, that the RTC Resolution denying petitioners' Motion for Leave to Amend Complaint had already become final and executory. This only means that the original Complaint stands. In effect, petitioner cannot use the Amended Complaint as a basis for indemnity that the notice of lis pendens should not be cancelled as it does not form part of the records.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated April 30, 2003 and its Resolution of July 4, 2003 are AFFIRMED.

SO ORDERED.

Tinga, Chico-Nazario, Nachura, and Reyes, JJ., concur

* In lieu of Justice Consuelo Ynares-Santiago, per Special Order No. 497 dated March 14 2008.

[1]Penned by Justice Amelita G. Tolentino with the concurrence of Justices Buenaventura J. Guerrero and Mariano C. Del Castillo.

[2]Penned by Associate Justice Amelita G. Tolentino with the concurrence of Associate Justices Edgardo P. Cruz and Mariano C. del Castillo, id. at 44

[3]Docketed as Civil Case No. Q-00-42489, Annex "C", rollo, p. 45.

[4]Annex "F", rollo, p. 68.

[5]Annex "E", rollo, p. 63.

[6]Annex "D", rollo, p. 52.

[7]Annex "I", rollo, p. 78.

[8]Annex "J", rollo, p. 79.

[9]Annex "K", rollo, p. 86.

[10]Annex "M", rollo, pp.
104-106.

[11]Annex "N", rollo, p. 107.

[12]Annex "O", rollo, p. 109.

[13] Annex "P", rollo, p. 118.

[14]Annex , "Q" rollo, p. 74

[15] Annex "K", CA rollo, p. 120.

[16] Annex "R", rollo, p. 122.

[17] CA rollo, p. 2.

[18]Penned by Associate Justice Josefina Guevara-Salonga with the concurrence of Associate Justices Roberto A. Barrios and Lucas p. Bersamin, rollo, p. 264

[19]Rollo, p. 275

[20] CA rollo. 218.

[21] Id. at 242.

[22]Rollo, p. 219.

[23]Rollo, p. 275.

[24]G.R. No. 172315, August 28, 2007.

[25]Amendments by leave of court - Except as provided in the next preceding section, substantial amendments may be made only upon leave of court. But such leave may be refused if it appears to the court that the motion was made with intent to delay. Orders of the court upon the matters provided in this section shall be made upon motion filed in court, and after notice to the adverse party, and an opportunity to be heard.

[26] G.R. No. 158401, January 28, 2008 citing *Spouses Valenzuela v. Court of Appeals*, 416 Phil. 289 (2001).

[27] Id. at 298-299

[28] *Collantes v. Court of Appeals*, G.R. No. 169604, March 6, 2007, 517 SCRA 561, 562.

[29] Id.

[30] Ramos v. Ramos, 447, 119 (2003).

[21] G.R. No. 142406, May 16, 2005, 458 SCRA 483.

[32] Id. at 492-493.

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