

**ROLANDO TING, PETITIONER, VS. HEIRS OF DIEGO LIRIO, NAMELY:
FLORA A. LIRIO, AMELIA L. ROSKA, AURORA L. ABEJO, ALICIA L.
DUNQUE, ADELAIDA L. DAVID, EFREN A. LIRIO AND JOCELYN ANA...**

G.R. NO. 168913. March 14, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

In a Decision of December 10, 1976 in Land Registration Case (LRC) No. N-983, then Judge Alfredo Marigomen of the then Court of First Instance of Cebu, Branch 7, granted the application filed by the Spouses Diego Lirio and Flora Atienza for registration of title to Lot No. 18281 (the lot) of the Cebu Cadastral 12 Extension, Plan Rs-07-000787.

The decision in LRC No. N-983 became final and executory on January 29, 1977. Judge Marigomen thereafter issued an order of November 10, 1982 directing the Land Registration Commission to issue the corresponding decree of registration and the certificate of title in favor of the spouses Lirio.

On February 12, 1997, Rolando Ting (petitioner) filed with the Regional Trial Court (RTC) of Cebu an application for registration of title to the same lot. The application was docketed as LRC No. 1437-N.[1]

The herein respondents, heirs of Diego Lirio, namely: Flora A. Lirio, Amelia L. Roska, Aurora L. Abejo, Alicia L. Dunque, Adelaida L. David, Efren A. Lirio and Jocelyn Anabelle L. Alcover, who were afforded the opportunity to file an opposition to petitioner's application by Branch 21 of the Cebu RTC, filed their Answer[2] calling attention to the December 10, 1976 decision in LRC No. N-983 which had become final and executory on January 29, 1977 and which, they argued, barred the filing of petitioner's application on the ground of res judicata.

After hearing the respective sides of the parties, Branch 21 of the Cebu RTC, on motion of respondents, dismissed petitioner's application on the ground of res judicata.[3]

Hence, the present petition for review on certiorari which raises the sole issue of whether the decision in LRC No. N-983 constitutes res judicata in LRC No. 1437-N.

Petitioner argues that although the decision in LRC No. N-983 had become final and executory on January 29, 1977, no decree of registration has been issued by the Land Registration Authority (LRA);[4] it was only on July 26, 2003 that the "extinct" decision belatedly surfaced as basis of respondents' motion to dismiss LRC No. 1437-N;[5] and as no action for revival of the said decision was filed by respondents after the lapse of the ten-year prescriptive period, "the cause of action in the dormant judgment passé[d] into extinction." [6]

Petitioner thus concludes that an "extinct" judgment cannot be the basis of res judicata.[7]

The petition fails.

Section 30 of Presidential Decree No. 1529 or the Property Registration Decree provides:

SEC. 30. When judgment becomes final; duty to cause issuance of decree. - The judgment rendered in a land registration proceeding becomes final upon the expiration of thirty days[8] to be counted from the date of receipt of notice of the judgment. An appeal may be taken from the judgment of the court as in ordinary civil cases.

After judgment has become final and executory, it shall devolve upon the court to forthwith issue an order in accordance with Section 39 of this Decree to the Commissioner for the issuance of the decree of registration and the corresponding certificate of title in favor of the person adjudged entitled to registration. (Emphasis supplied)

In a registration proceeding instituted for the registration of a private land, with or without opposition, the judgment of the court confirming the title of the applicant or oppositor, as the case may be, and ordering its registration in his name constitutes, when final, *res judicata* against the whole world.[9] It becomes final when no appeal within the reglementary period is taken from a judgment of confirmation and registration.[10]

The land registration proceedings being in rem, the land registration court's approval in LRC No. N-983 of spouses Diego Lirio and Flora Atienza's application for registration of the lot settled its ownership, and is binding on the whole world including petitioner.

Explaining his position that the December 10, 1976 Decision in LRC No. N-983 had become "extinct," petitioner advances that the LRA has not issued the decree of registration, a certain Engr. Rafaela Belleza, Chief of the Survey Assistance Section, Land Management Services, Department of Environment and Natural Resources (DENR), Region 7, Cebu City having claimed that the survey of the Cebu Cadastral Extension is erroneous and all resurvey within the Cebu Cadastral extension must first be approved by the Land Management Services of the DENR, Region 7, Cebu City before said resurvey may be used in court; and that the spouses Lirio did not comply with the said requirement for they instead submitted to the court a mere special work order.[11]

There is, however, no showing that the LRA credited the alleged claim of Engineer Belleza and that it reported such claim to the land registration court for appropriate action or reconsideration of the decision which was its duty.

Petitioners insist that the duty of the respondent land registration officials to issue the decree is purely ministerial. It is ministerial in the sense that they act under the orders of the court and the decree must be in conformity with the decision of the court and with the data found in the record, and they have no discretion in the matter. However, if they are in doubt upon any point in relation to the preparation and issuance of the decree, it is their duty to refer the matter to the court. They act, in this respect, as officials of the court and not as administrative officials, and their act is the act of the court. They are specifically called upon to "extend assistance to courts in ordinary and cadastral land registration proceedings." [12] (Emphasis supplied)

As for petitioner's claim that under Section 6, Rule 39 of the Rules of Court reading:

SEC. 6. Execution by motion or by independent action. - A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations[.]

the December 10, 1976 decision became "extinct" in light of the failure of respondents and/or of their predecessors-in-interest to execute the same within the prescriptive period, the same does not lie.

Sta. Ana v. Menla, et al.[13] enunciates the *raison d'être* why Section 6, Rule 39 does not apply in land registration proceedings, viz:

THAT THE LOWER COURT ERRED IN ORDERING THAT THE DECISION RENDERED IN THIS LAND REGISTRATION CASE ON NOVEMBER 28, 1931 OR TWENTY SIX YEARS AGO, HAS NOT YET BECOME FINAL AND UNENFORCEABLE.

We fail to understand the arguments of the appellant in support of the above assignment, except in so far as it supports his theory that after a decision in a land registration case has become final, it may not be enforced after the lapse of a period of 10 years, except by another proceeding to enforce the judgment or decision. Authority for this theory is the provision in the Rules of Court to the effect that judgment may be enforced within 5 years by motion, and after five years but within 10 years, by an action (Sec. 6, Rule 39.) This provision of the Rules refers to civil actions and is not applicable to special proceedings, such as a land registration case. This is so because a party in a civil action must immediately enforce a judgment that is secured as against the adverse party, and his failure to act to enforce the same within a reasonable time as provided in the Rules makes the decision unenforceable against the losing party. In special proceedings the purpose is to establish a status, condition or fact; in land registration proceedings, the ownership by a person of a parcel of land is sought to be established. After the ownership has been proved and confirmed by judicial declaration, no further proceeding to enforce said ownership is necessary, except when the adverse or losing party had been in possession of the land and the winning party desires to oust him therefrom.

Furthermore, there is no provision in the Land Registration Act similar to Sec. 6, Rule 39, regarding the execution of a judgment in a civil action, except the proceedings to place the winner in possession by virtue of a writ of possession. The decision in a land registration case, unless the adverse or losing party is in possession, becomes final without any further action, upon the expiration of the period for perfecting an appeal.

x x x x (Emphasis and underscoring supplied)

WHEREFORE, the petition is, in light of the foregoing discussions, DENIED.

Costs against petitioner, Rolando Ting.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

[1] Rollo, p. 8.

[2] Records, pp. 219-220.

[3] Rollo, p. 23.

[4] Id. at 12.

[5] Ibid.

[6] Ibid.

[7] Id. at 13.

[8] The first paragraph of Section 39 of B.P. Blg. 129 or The Judiciary Reorganization Act OF 1980 provides:

SEC. 39. Appeals. - The period for appeal from final orders, resolutions, awards, judgments, or decisions of any court in all cases shall be fifteen (15) days counted from the notice of the final order, resolution , award, judgment, or decision appealed from: Provided, however, That in habeas corpus cases, the period for appeal shall be forty-eight (48) hours from the notice of the judgment appealed from.

[9] Noblejas and Noblejas, Registration Of Land Titles And Deeds 136 (1992 ed.)

[10] Id. at 162

[11] Rollo, p. 13.

[12] Gomez v. Court of Appeals, No. L-77770, December 15, 1988, 168 SCRA 503, 510. Vide also Ramos v. Rodriguez, G.R. No. 94033, May 29, 1995, 244 SCRA 418 and P.D. No. 1529, Section 6(2)(b).

[13] 111 Phil. 947, 951 (1961); vide also Cacho v. Court of Appeals, G.R. No. 123361, March 3, 1997, 269 SCRA 159, 170-171.

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