

IN THE MATTER OF REVERSION/RECALL OF RECONSTITUTED OCT NO. 0-116 DECREE NO. 3999 OF LOT 4239; DECREE NO. 59327; OCT NO. 388; IN THE TARLAC REGISTRY OF DEEDS – HEIRS OF THE LATE ...*G.R. No. 171304. October 10, 2007*

Ponente: CHICO-NAZARIO, J.

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This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court seeking the reversal of (1) the 29 April 2005 Resolution[1] of the Court of Appeals in CA-G.R. SP UDK No. 5314, which dismissed petitioners' Petition for Annulment of Judgment and (2) the 5 August 2005 Resolution[2] of the appellate court which denied petitioners' Motion for Reconsideration. The Petition for Annulment of Judgment filed by the petitioners with the Court of Appeals was, in turn, directed against the 29 October 1993 Decision[3] of the Regional Trial Court (RTC) of Tarlac, Branch 67, in Land Case No. 274-P'93, which ordered the reconstitution of the Original Certificates of Title (OCTs) in the name of the Municipality of Paniqui, Tarlac over the subject property.

The factual and procedural antecedents of the case are as follows:

Sometime in 1910, officials of the Municipal Government of Paniqui, headed by Maximo Parazo, built a school, a public market, and a cemetery on an untitled parcel of land. Thereafter, OCTs No. R0-532 (O-116) and No. 388 were issued on 17 February 1911 and 7 June 1915, respectively, in the name of the Municipal Government of Paniqui, by virtue of the judicial confirmation of its title to the subject property. OCTs No. R0-532 (O-116) and No. 388 covered the property being claimed by petitioners.

On 29 October 1993, pursuant to a Verified Petition for Reconstitution filed by the Municipality of Paniqui, represented by Mayor Cesar E. Cuchapin, the RTC issued a Decision resolving that OCTs No. R0-532 (O-116) and No. 388 were indeed lost, and ordering the cancellation and the reconstitution of the same as Transfer Certificates of Title (TCTs) No. 259969, No. 259970, No. 260900, No. 260901, No. 260902, No. 260903, and No. 336772 of the Registry of Deeds of Tarlac City, registered in the name of the Municipality of Paniqui.

On 3 February 2005, the Municipality of Paniqui demolished its old Public Market in order to build a new one. Around this time, a former Board Member of the municipality inadvertently showed a close friend of the petitioners the cancelled OCTs No. RO-532 (O-116) and No. 338 covering the lot where the public market is located. The said OCTs allegedly named the petitioners' ascendants as the former owners of the subject property.

On 28 March 2005, petitioners filed the Petition for Annulment of Judgment[4] with the Court of Appeals, praying for the cancellation of the TCTs and for the reconveyance in their favor of the title to the parcels of land.

Petitioners based their petition on the claim that their alleged ascendants were the original pioneers/settlers/occupants of the land in question since 1843 as its indigenous inhabitants. In 1910, however, officials of the Municipal Government of Paniqui, headed by Maximo Parazo, ordered the occupants of the land to vacate their property so that the municipality could build thereon a school, a public market, and a cemetery.

According to petitioners, their ascendants were not given a chance or opportunity to appear or answer and present their side at the cadastral proceedings involving the subject properties, from which resulted the issuance of the OCTs in the name of the Municipality of Paniqui.

On 29 April 2005, the Court of Appeals issued the first assailed Resolution, wherein it dismissed the Petition for Annulment of Judgment on the following grounds:

- The Petition was not verified, contrary to Section 4, Rule 47 of the Rules of Court;
- The attached copy of the assailed RTC Decision is a mere photocopy and not a certified true copy, also contrary to Section 4, Rule 47 of the Rules of Court;
- The corresponding Special Powers of Attorney of the alleged Attorneys-in-Fact were not attached; and
- Petitioners failed to indicate the material dates pertinent to the filing of the Petition, hence, failing to prove that the same was brought within four years from the discovery of the extrinsic fraud alleged in the assailed 29 October 1993 Decision, contrary to Section 3, Rule 47 of the Rules of Court.

Petitioners filed a Motion for Reconsideration of the dismissal of their Petition, attaching thereto the following:

- a copy of page 7 of the Petition containing the Verification of the same[5];
- a photocopy of the assailed 29 October 1993 RTC Decision[6];
- Special Power of Attorney of petitioners Conrado Rivera and Perseveranda Domingo, appointing and constituting Glorificador D. Palaganas, Roselynn E. Mendoza, and Danilo M. Marcelo as their Attorneys-in-Fact[7]; and
- Special Power of Attorney of petitioners Jose Velasquez, Demetria de Vera and Luz P. Labutong, appointing and constituting Paciano P. Paragas and Benedicto P. Manuel as their Attorneys-in-Fact.[8]

The Court of Appeals, noting that the attached copy of the assailed RTC Decision is still only a photocopy of a certified xerox copy, held that even if the technicalities were brushed aside, the Petition would still be dismissed for lack of substantial merit, for the following reasons:

- Petitioners failed to show that they are the real parties-in-interest authorized to institute the Petition for Annulment of Judgment. The Petition did not establish that the petitioners are truly the successors-in-interest of the individuals indicated in the technical descriptions of OCT No. R0-532 (0-116) and OCT No. 388. Although the surnames appearing in the technical descriptions are the same as those of some of the petitioners, there was no allegation of how the alleged original inhabitants and the petitioners were related nor was any proof thereof presented;
- Petitioners failed to allege fraud in connection with the proceedings in Land Case No. 274-P'93 which culminated in the rendition of the assailed Decision dated 29 October 1993 by the RTC. The fraud averred by the petitioners was allegedly committed in the cadastral proceedings for the judicial confirmation of title to the subject property conducted on 17 February 1911, 7 June 1915 and 20 September 1917, and not in the rendition of the judgment dated 29 October 1993 by the RTC in Land Case No. 274-P'93 which petitioners seek to annul; and
- The claim of petitioners had already been barred by laches. Although petitioners discovered their supposed right to the disputed property only recently, their alleged ascendants should have instituted an action against the Municipal Government of Paniqui, Tarlac, or against Maximo Parazo for the purportedly unlawful taking of the property way back in the 1920s. The petitioners make no allegation as to any action taken by the alleged ascendants to recover the subject property.

The Motion for Reconsideration thus having been denied for lack of merit, petitioners filed the present Petition for Review on Certiorari.

Section 2, Rule 47 of the 1997 Rules of Civil Procedure provides that the annulment of a judgment may "be based only on the grounds of extrinsic fraud and lack of jurisdiction." [9]

A perusal of the records of the case reveals that petitioners did not allege, much less prove, either extrinsic fraud or lack of jurisdiction by the RTC in Land Case No. 274-P'93. Petitioners' claim was that municipal officials ordered their alleged ascendants to vacate the subject property way back in 1910 to build a school, a public market and a cemetery thereon, and that the municipality was subsequently issued OCTs after a judicial confirmation of its title in 1911 and 1915. Petitioners allege that their ascendants were defrauded when they were not given a chance or opportunity to appear or answer and present their side at the cadastral proceedings involving the subject property. It is apparent that what petitioners are actually challenging are the cadastral proceedings in which the OCTs over the subject property were issued in the name of the Municipality of Paniqui. Their Petition was, however, directed against the Decision of the RTC 78 years later decreeing reconstitution of said OCTs.

Even if we consider that the petition for annulment was, in effect, filed against the 1911 and 1915 judicial decrees confirming the title of the Municipality of Paniqui over the subject property, as petitioners imply in their Memorandum, their petition must still be dismissed.

Petitioners failed to prove either extrinsic fraud or lack of jurisdiction, the grounds for a petition for annulment of judgment, even with respect to the 1911 and 1915 Decrees.

There is extrinsic fraud when the unsuccessful party had been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff. [10] Petitioners presented no proof to substantiate their allegation that their ascendants were not given a chance or opportunity to appear or answer and present their side at the cadastral proceedings involving the subject property.

Likewise, petitioners presented neither any evidence nor any legal argument in support of their claim of lack of jurisdiction of the court which took cognizance of the cadastral proceedings in which the OCTs over the subject property were issued in the name of the Municipality of Paniqui.

In order to cover up for the lack of evidence to prove the grounds for an annulment of judgment, petitioners relied on an erroneous interpretation of a very old case. Citing the 1906 case, *Nicolas v. Jose*, [11] petitioners claim that extrinsic fraud and lack of jurisdiction are shown by the mere fact that a municipality had a real property devoted to public use registered in its name. [12]

In *Nicolas*, the then Municipality of Cavite sought to be inscribed as the owner of a certain track of land situated within said municipality. Finding that the property in question is a public square, this Court, applying a provision in the Spanish Civil Code, held that:

The evidence shows, and the court below so found, that at the time the Kiosko Cafe and the theater were built, they were built upon a public street or square known as the "Paseo o Plaza de la Soledad."

x x x x

The question remains as to whether the municipality is entitled to have the land upon which the Kiosko Café stands registered in its name. Article 344 of the Civil Code is as follows:

"Property for public use in provinces and in towns comprises the provincial and town roads, the squares, streets, fountains, and public waters, the promenades, and public works of general service supported by the

said towns or provinces.

“All other property possessed by either is patrimonial, and shall be governed by the provisions of this code, unless otherwise prescribed in special laws.”

The land in question, upon which this Kiosko Café stands, being dedicated to public use, we do not think it is subject to inscription by the municipality. Article 25 of the regulations for the execution of the Mortgage Law prohibits the inscription of public streets in the old registry. Public streets are not bienes patrimoniales of the municipality so long as they are destined to public use.[13]

Properties of local government units under the Spanish Civil Code were limited to properties for public use and patrimonial property.[14] The same is still true under the 1950 Civil Code which governs us today. The principle has remained constant: property for public use can be used by everybody, even by strangers or aliens, in accordance with its nature; but nobody can exercise over it the rights of a private owner.[15] As aptly held by this court in *The Province of Zamboanga del Norte v. City of Zamboanga*[16]:

The Civil Code classification is embodied in its Arts. 423 and 424 which provide:

"ART. 423. The property of provinces, cities and municipalities, is divided into property for public use and patrimonial property. "

"ART. 424. Property for public use, in the provinces, cities, and municipalities, consists of the provincial roads, city streets, municipal streets, the squares, fountains, public waters, promenades, and public works for public service paid for by said provinces, cities, or municipalities.

"All other property possessed by any of them is patrimonial and shall be governed by this Code, without prejudice to the provisions of special laws."

Applying the above cited norm, all the properties in question, except the two (2) lots used as High School playgrounds, could be considered as patrimonial properties of the former Zamboanga province. Even the capitol site, the hospital and leprosarium sites, and the school sites will be considered patrimonial for they are not for public use. They would not fall under the phrase "public works for public service" for it has been held that under the *eiusdem generis* rule, such public works must be for free and indiscriminate use by anyone, just like the preceding enumerated properties in the first paragraph of Art. 424. The playgrounds, however, would fit into this category.[17]

While this Court in *Province of Zamboanga del Norte* ended up using the Municipal Corporation Law classification instead of that of the Civil Code classification,[18] *Nicolas* has settled the application of the Civil Code classification with respect to the provision of the then-in-effect regulations for the execution of the Mortgage Law.

In the case at bar, a school, a public market, and a cemetery were built upon the subject property. Unlike a public square as that in *Nicolas* or a playground as that in the *Province of Zamboanga del Norte*, schools, public markets and cemeteries are not for the free and indiscriminate use of everyone. The determination of the persons allowed to study in such schools, or put up stalls in the public market, or bury their dead in public cemeteries are regulated by the government. As such, the subject property is, under the Civil Code classification, patrimonial property, and the Municipality may have the same registered in its name.

As neither extrinsic fraud nor lack of jurisdiction had been proven by petitioners, we hold that the Court of Appeals was correct in dismissing petitioners' Petition for Annulment of Judgment.

We likewise affirm the finding of the Court of Appeals that the claim of petitioners had already been barred by laches. Laches is defined as failure or neglect for an unreasonable and unexplained length of time to do that

which, by exercising due diligence, could or should have been done earlier. It is negligence or omission to assert a right within a reasonable time, warranting the presumption that the party entitled to assert it has either abandoned or declined to assert it.[19]

The recent discovery by petitioners of their supposed right to the disputed property notwithstanding, petitioners' alleged ascendants should have instituted an action against the Municipal Government of Paniqui or against Maximo Parazo for the allegedly unlawful taking of the property way back in the 1920s. As asserted by petitioners themselves, the Municipality of Paniqui had openly taken over the property and exercised rights over the same. The period of the omission of petitioners' purported predecessors-in-interest since the taking of the property in 1910 up to the filing of the petition is certainly an unreasonable time. Being the purported successors-in-interest of the former owners of the subject property, petitioners merely stepped into the shoes of their predecessors-in-interest, and are bound by their actions and inactions.[20]

This brings us to the final reason for the denial of the present petition. The records of the case are bereft of any proof on the part of petitioners that they are indeed the successors-in-interest of the supposed former owners of the subject property. Bearing the same surnames as the individuals indicated in the technical descriptions of the OCTs being reconstituted is woefully inadequate to prove their relationship. As petitioners failed to establish that they are the descendants of the supposed former owners of the subject property, the case at bar cannot be prosecuted in their name, as they are not the real parties-in-interest as provided in Section 2, Rule 3 of the Rules of Court.

A real party-in-interest is one who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. By real interest is meant a present substantial interest, as distinguished from a mere expectancy; or a future, contingent, subordinate, or consequential interest.[21] Rule 3, Section 2, of the Rules of Court provides explicitly that every action must be prosecuted and defended in the name of the real party-in-interest. Petitioners' failure to prove such real interest constrained the Court of Appeals to dismiss the petition.

WHEREFORE, the Petition is DENIED. The 29 April 2005 Resolution of the Court of Appeals dismissing petitioners' Petition for Annulment of Judgment in CA-G.R. SP UDK No. 5314 and the 5 August 2005 Resolution of the same court denying petitioners' Motion for Reconsideration are AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Carpio-Morales, and Reyes, JJ., concur.

[1] Penned by Associate Justice Rosalinda Asuncion-Vicente with Associate Justices Godardo A. Jacinto and Bienvenido L. Reyes, concurring; rollo, pp. 76-77.

[2] CA rollo, pp. 83-88.

[3] Id. at 17-18.

[4] Id. at 8-16.

[5] Id. at 60.

[6] Id. at 57-58.

[7] Id. at 62-63.

[8] Id. at 64-65.

[9] Republic of the Phils. v. Heirs of Sancho Magdato, 394 Phil. 423, 428-429 (2000), citing Alarcon v. Court of Appeals, 380 Phil. 678, 688 (2000); Spouses Miranda v. Court of Appeals, 383 Phil. 163, 171 (2000).

[10] Republic of the Phils. v. Heirs of Sancho Magdato, id.

[11] 6 Phil. 589 (1906).

[12] Petitioners' Memorandum, page 4; rollo, p. 91.

[13] Nicolas v. Jose, supra note 11 at 590-593.

[14] CIVIL CODE (1889), Art. 343; CIVIL CODE (1950), Art. 423. Article 343, Spanish Civil Code; Article 423, 1950 Civil Code.

[15] II Arturo M. Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines (1992 Ed.), p. 36.

[16] 131 Phil. 446 (1968).

[17] Id. at 454-455.

[18] In The Province of Zamboanga del Norte v. City of Zamboanga, the Province of Zamboanga del Norte filed a complaint for declaratory relief, praying that Republic Act No. 3019 be declared unconstitutional for depriving them of property without just compensation. Republic Act No. 3019 provided for the transfer of all properties belonging to the former Province of Zamboanga located within the city of Zamboanga free of charge in favor of the City of Zamboanga. The Court observed that if the subject properties are owned by the municipality in its public and governmental capacity, the properties are public and Congress has absolute control over it. But if the properties are owned in its private or proprietary capacity, then they are patrimonial and Congress has no absolute control. The municipality cannot be deprived of them without due process and payment of just compensation.

The Court identified two norms for the determination of the classification of the properties in question, that of the Civil Code or that obtaining under the law of Municipal Corporations. Under the Civil Code norm, properties for the free and indiscriminate use of everyone are properties for public use; while all other properties are patrimonial in nature. Under the Municipal Corporations Law norm, to be considered public property, it is enough that a property is held and devoted to a governmental purpose like local administration, public education, and public health.

The Court applied the Municipal Corporations Law norm, holding that the controversy in said case "is more along the domains of the Law of Municipal Corporations – State vs. Province – than along that of Civil Law."

[19] Cormero v. Court of Appeals, 317 Phil. 348, 357 (1995).

[20] Biana v. Gimenez, G.R. No. 132768. 9 September 2005, 469 SCRA 486.

[21] Pioneer Insurance & Surety Corporation v. Court of Appeals, G.R. Nos. 84197 & 84157, 28 July 1989, 175 SCRA 668, 678.

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