

LORNA CASTIGADOR, PETITIONER, VS. DANILO M. NICOLAS, RESPONDENT.*G.R. No. 184023. March 04, 2013*

Ponente: REYES, J.

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Petitioner Lorna Castigador (petitioner) assails the Court of Appeals (CA) Resolutions in CA-G.R. SP No. 99725 dated July 31, 2007[1] and July 29, 2008,[2] dismissing her petition for annulment of judgment.[3]

Petitioner was the previous registered owner of a 522-square meter property in Tagaytay under Transfer Certificate of Title (TCT) No. T-41069. In 2004, the City Treasurer of Tagaytay sold the property at public auction for non-payment of real estate taxes. According to petitioner, she did not receive any notice of assessment, notice of delinquency, warrant of levy and notice of public auction.[4] Respondent Danilo M. Nicolas (respondent) was thereafter declared the highest bidder. The certificate of sale issued to respondent was then annotated at the back of petitioner's title. Petitioner further alleged that she was not given a notice of the auction sale or registration of the certificate of sale.[5]

In 2006, respondent sought the issuance of a new title due to petitioner's failure to redeem the property. Petitioner, again, alleged that she did not receive a copy of the petition or any subsequent notices as her address indicated therein was wrong. Consequently, the Regional Trial Court (RTC) of Tagaytay City rendered on May 31, 2006 its decision granting respondent's petition[6] and ordering the issuance of TCT No. T-65220 in respondent's name.[7]

When finally apprised of these events, petitioner filed a notice of adverse claim on respondent's TCT but it was denied by the Register of Deeds of Tagaytay City on the ground that there was no privity between petitioner and respondent.

Thus, petitioner filed the petition for annulment of judgment with the CA on July 17, 2007. On July 31, 2007, the CA rendered the assailed Resolution dismissing the petition on the grounds that: (1) the petition is defective for failure to comply with Rule 7, Section 4 of the 1997 Rules of Civil Procedure, as amended; and (2) there is no allegation in the petition that it is based on extrinsic fraud and lack of jurisdiction, in violation of Rule 47, Section 2 of the Rules.[8] Petitioner filed a Motion for Reconsideration with Motion for Leave to Admit Amended Petition, which was denied by the CA in the assailed Resolution dated July 29, 2008. The CA simply stated that "the arguments posed by the petitioner in support of the grounds cited for the allowance of the petition are bereft of merit, as they do not constitute extrinsic fraud to annul the questioned decision." [9]

Hence, this petition.

To begin with, under Section 5, Rule 47 of the Rules of Court, it is incumbent that when a court finds no substantial merit in a petition for annulment of judgment, it may dismiss the petition outright but the "specific reasons for such dismissal" shall be clearly set out. In this case, the Court is at sea on the tenor of the assailed

resolutions. Was the petition dismissed because it does not contain any allegation of extrinsic fraud or lack of jurisdiction (procedural)? Or was it dismissed because the petition failed to make out a case for annulment of judgment based on extrinsic fraud or lack of jurisdiction (substantial)? Unfortunately, the CA brushed aside any discussion on these points and failed to state with clarity the reasons for the dismissal. Thus, the difficult, but not impossible, task on the part of the Court to make a definitive determination as to whether the CA committed a reversible error in dismissing the petition.

On the assumption that the CA's dismissal was based on a procedural defect, the Court finds a reversible error committed by the CA on this score.

The petition filed with the CA contained the following allegations, among others: (1) "the auction sale of the land is null and void for lack of actual and personal notice to herein petitioner"; (2) the RTC did not comply with the procedure prescribed in Section 71, Presidential Decree No. 1529 requiring notice by the Register of Deeds to the registered owner as to the issuance of a certificate of sale; and (3) petitioner was not afforded due process when she was not notified of the proceedings instituted by respondent for the cancellation of her title.[10] The petition need not categorically state the exact words extrinsic fraud; rather, the allegations in the petition should be so crafted to easily point out the ground on which it was based. The allegations in the petition filed with the CA sufficiently identify the ground upon which the petition was based – extrinsic fraud. Fraud is extrinsic where it prevents a party from having a trial or from presenting his entire case to the court, or where it operates upon matters pertaining not to the judgment itself but to the manner in which it is procured. The overriding consideration when extrinsic fraud is alleged is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court.[11] The allegations clearly charged the RTC and respondent with depriving petitioner of the opportunity to oppose the auction sale and the cancellation of her title and ventilate her side. This allegation, if true, constitutes extrinsic fraud.

On the assumption, on the other hand, that the CA's disposition of the petition was based on its substantial merits, the Court still finds a reversible error committed by the CA.

As previously stressed, the grounds relied upon by the petitioner in support of its prayer for the annulment of judgment is lack of notice, from the assessment of the property for real estate tax purposes up to the time the title over the property passed on to respondent. These are serious charges and could very well affect the validity of the issuance of the new title to respondent. Nevertheless, the Court is not in the proper position to determine the veracity and validity of petitioner's allegations as these entail a factual assessment of the records. Moreover, records show that the proceedings before the CA did not even reach the comment stage as the petition was summarily dismissed. Therefore, this case should be remanded to the CA for further proceedings on the petition for annulment of judgment.

WHEREFORE, the petition for review is GRANTED. Let this case be remanded to the Court of Appeals for further proceedings in CA-G.R. SP No. 99725 in accordance with Rule 47 of the Rules of Court.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Lucenito N. Tagle and Sixto C. Marella, Jr., concurring; rollo, pp. 49-51.

[2] Id. at 54-57.

[3] Id. at 50.

[4] Id. at 5.

[5] Id. at 5-6.

[6] Id. at 7-8.

[7] Id. at 8.

[8] Id. at 49-50.

[9] Id. at 57.

[10] Id. at 79-84. Petitioner also filed an Amended Petition but the records are bereft of any indication whether this was acted upon by the CA.

[11] *Bulawan v. Aquende*, G.R. No. 182819, June 22, 2011, 652 SCRA 585, 594.

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