

TAN PO CHU, PETITIONER, VS. COURT OF APPEALS, FELIX T. CHINGKOE, ROSITA L. CHINGKOE, AND RODRIGO GARCIA, RESPONDENTS.*G.R. No. 184348. April 04, 2016*

Ponente: BRION, J.

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This is a petition for certiorari filed by Tan Po Chu from the January 16, 2008 and July 16, 2008 resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 101727.[1] The CA dismissed outright Tan's petition for annulment of the Regional Trial Court's (RTC) decision in LRC CASE No. 2005-771-MK[2] on the grounds that the petition suffered from procedural infirmities and lacked substantial merit.

Antecedents

Fiber Technology Corporation (FiberTech) was a Philippine corporation with Securities and Exchange Commission (SEC) Registration No. 0000142818. It was also the registered owner of a parcel of land in Marikina (subject lot) covered by Transfer Certificate of Title (TCT) No. 157923 entered on November 28, 1988. The SEC allegedly revoked FiberTech's registration on September 29, 2003.[3]

On April 4, 2005, respondent Felix Chingkie executed an affidavit of loss of TCT No. 157923 allegedly on behalf of FiberTech.[4]

On June 2, 2005, FiberTech - supposedly represented by respondent Rodrigo Garcia pursuant to a December 2, 2004 Board Resolution[5] - filed a petition for the reissuance/replacement of its owner's duplicate of TCT No. 157923. The petition was based on the affidavit of loss that Felix executed. The petition alleged: (1) that Felix and his wife Rosita acquired 3 00% ownership of FiberTech in 2004 pursuant to an award by the National Labor Relations Commission (NLRC); (2) that Felix was elected Corporate Secretary soon after; (3) that Felix asked the former directors and officers of FiberTech to turn over the owner's duplicate of TCT No. 157923, but the latter denied knowledge or possession thereof; and (4) that after conducting an exhaustive search, the subject title was nowhere, to be found.[6]

The petition was raffled to the RTC, Marikina City, Branch 193 and docketed as LRC Case No. 2005-771-MK.

On July 23, 2006, the RTC granted the petition. It declared the owner's duplicate copy of TCT No. 157923 as lost and ordered its reissuance.[7]

On December 21, 2007, Tan Po Chu - mother of FiberTech's incorporators Faustino and respondent Felix Chingkie - filed a petition before the CA for annulment of judgment against the RTC's decision.[8] The petition was docketed as CA-G.R. SP No. 101727 with Tan Po Chu and FiberTech as petitioners.

Tan alleged: (1) that the missing owner's duplicate of TCT was in her custody as the responsible officer of FiberTech; (2) that Felix was aware of this fact; (3) that Felix committed perjury when he executed the Affidavit

of Loss; (4) that Felix and Rosita had not acquired 100% ownership of FiberTech; (5) that Rosita and Rodrigo Garcia were not even stockholders of record in Fibertech; and (6) that the respondents had no authority to file the petition for reissuance of the owner's duplicate copy on behalf of FiberTech.[9]

Citing *New Durawood Co. v. Court of Appeals*[10] and *Serra Serra v. Court of Appeals*,[11] Tan further argued that if an owner's duplicate TCT has not been lost, but is in fact possessed by another person, then the reconstituted title is void and the court that rendered the decision never acquired jurisdiction.

However, the CA dismissed Tan's petition outright on January 16, 2008 on the grounds that the petition suffered from procedural infirmities and lacked substantial merit.[12]

The CA observed that: (1) the verification and certification of non-forum shopping were executed alone by Tan Po Chu without showing that she had the authority to sign for and on behalf of the corporation; (2) Tan's actual address was not indicated in the petition as required by Rule 46, Section 3; and (3) the attached copy of the owner's duplicate TCT No. 157923 was not a certified true copy.

The CA also brushed aside Tan's substantive argument. It held that the RTC acquired jurisdiction over the case after complying with the notice and hearing requirements under Section 109 of Presidential Decree (P.D.) No. 1529 or the Property Registration Decree.[13]

Tan moved for reconsideration. However, on July 16, 2008, the CA denied the motion, insisting that Tan's assertion that the RTC lacked jurisdiction was without merit.[14]

On September 19, 2008, Tan filed the present petition for certiorari.

The Petition

Tan argues that the CA committed grave abuse of discretion in ruling that her allegation of the RTC's lack of jurisdiction was not meritorious. She maintains that the respondents misled the RTC because: (1) Felix and Rosita never became 100% owners of FiberTech; and (2) they knew that the "missing" owner's duplicate was in her possession. Pursuant to the cases of *New Durawood*, *Serra Serra*, *Strait Times v. CA*,[15] and *Demetriou v. CA*,[16] the RTC never acquired jurisdiction to reconstitute the owner's duplicate TCT.

The respondents counter that the CA did not commit grave abuse of discretion in dismissing the petition. Further, assuming the CA decided in a manner contrary to prevailing jurisprudence, then it only committed an error of law and not an error of jurisdiction. They conclude that Tan's resort to a special civil action of certiorari was unwarranted because the correct remedy would have been to appeal the dismissal of her petition.

Our Ruling

At the outset, we observe that Tan resorted to the wrong remedy by filing a petition for certiorari under Rule 65. The Rules of Court explicitly authorizes the CA to dismiss outright a petition for annulment of judgment if the court finds no substantial merit in the petition.

Section 5. Action by the court. - Should the court find no substantial merit in the petition, the same may be dismissed outright with specific reasons for such dismissal.

Should prima facie merit be found in the petition, the same shall be given due course and summons shall be served on the respondent.[17]

Accordingly, outright dismissal of Tan's petition is within the jurisdiction of the CA and its correctness may be reviewed through an appeal by certiorari under Rule 45.

Certiorari is an extraordinary remedy of last resort for when another remedy is present, certiorari is not available.[18] It is a limited form of review confined to errors of jurisdiction. An error of jurisdiction is one where the officer or tribunal acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.[19] On the other hand, an error of judgment is one which the court may commit in the exercise of its jurisdiction.[20] They only involve errors in the court or tribunal's appreciation of the facts and of the law.[21] Errors of jurisdiction are reviewable on certiorari; errors of judgment, only by appeal.[22]

Ordinarily, this Court would have dismissed the petition outright for being an improper remedy. As a general rule, certiorari will not lie as a substitute for an appeal. However, an exception to this rule is where public welfare and the advancement of public policy so dictates.[23]

This Court cannot ignore the implications if the petitioner's allegations - that she has the original owner's duplicate TCT of the subject lot and that the SEC revoked FiberTech's registration in 2003 - are true. There will currently exist two owner's duplicate TCTs over the same property possessed by two contending factions in an intra-corporate dispute of a defunct corporation. This anomalous situation can potentially bring considerable harm to the general public and to the integrity of our Torrens system. This Court, therefore, cannot simply leave the parties as they were.

The CA committed a grave error when it brushed aside Tan's argument that the RTC rendered its decision without jurisdiction. It ruled that the replacement of a lost duplicate certificate is a proceeding in rem, directed against the whole world; therefore, the RTC acquired jurisdiction when it complied with the notice and hearing requirements under Section 109 of P.D. 1529.

The CA completely missed the point because Tan did not assail the RTC's jurisdiction by alleging noncompliance with the requirements of notice and hearing; she questioned the RTC's jurisdiction over the res by claiming that the allegedly lost owner's duplicate was, in fact, not lost but was in her custody. Therefore, the RTC's compliance with Section 109 of P.D. 1529 was irrelevant.

We have consistently held that when the owner's duplicate certificate of title has not been lost, but is in fact in the possession of another person, then the reconstituted certificate is void because the court failed to acquire jurisdiction over the subject matter - the allegedly lost owner's duplicate.[24] The correct remedy for the registered owner against an uncooperative possessor is to compel the surrender of the owner's duplicate title through an action for replevin.

A judgment void for want of jurisdiction is no judgment at all.[25] It has been held to be a lawless thing, which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its ugly head.[26] It may be attacked at any time.

If Tan's allegation were true, then the RTC's judgment would be void and the CA would have been duty-bound to strike it down. The CA could have nipped this anomalous situation in the bud before it could cause any harm to innocent third persons. However, the CA opted to turn its back on this duty and dismiss the case outright based on rigid technicalities and on irrelevant considerations regardless of the implications to the general public.

Moreover, the CA's dismissal based on technical grounds was erroneous. The CA raised the following procedural infirmities:

...(1) the verification and certification of non-forum shopping was executed alone by affiant Tan Po Chu without any showing that [s]he had the authority to sign for and in behalf of petitioner corporation pursuant to Sec. 5(1), Rule 7 and Sec. 4(3), Rule 47 of the 1997 Revised Rules of Civil Procedure considering that [s]he is one of the incorporators and stockholders of her co-petitioner corporation; (2) The actual address of petitioner

Tan Po Chu is not indicated in the petition as required by Sec. 3 (1), Rule 46 of the same Rule; (3) The copy of the owner's duplicate of TCT No. 157923 is not certified as a true copy of the original owner's duplicate by the proper government agency as alleged by the petitioners.[27]

First, we note that Tan alleged that FiberTech's corporate existence had already ceased when the SEC revoked its corporate registration on September 29, 2003, and that she was a trustee of the corporation for the purpose of its dissolution.[28] We note further that the petition for annulment was filed in the names of both FiberTech and Tan Po Chu.

While FiberTech may no longer have judicial personality to initiate the suit or authorize Tan Po Chu to file the case, Tan Po Chu remained a real party-in-interest as the lawful possessor of the allegedly lost owner's duplicate TCT. The respondents could not legally oust her of this possession by reconstituting the owner's duplicate instead of filing an action for replevin. Therefore, the verification and certification of non-forum shopping remained valid with respect to Tan Po Chu even though it might have been defective with respect to FiberTech.

Second, we also note that Tan Po Chu submitted her address in her motion for reconsideration to cure the defect in the petition.[29] Her motion for reconsideration substantially complies with Rule 46, Section 3 of the Rules of Court.

Finally, a petition for annulment of judgment only requires the inclusion of a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof.[30] It does not require the petitioner to annex certified true copies or duplicate originals of his evidence to the petition because these may be presented during the evidentiary hearings of the case. To our mind, none of the procedural infirmities warranted the CA's outright dismissal of the case.

Grave abuse of discretion is the capricious and whimsical exercise of judgment equivalent to an evasion of positive duty, or a virtual refusal to act at all in contemplation of the law.[31] It is present when power is exercised in a despotic manner by reason, for instance, of passion and hostility.[32] The use of wrong or irrelevant considerations in deciding an issue is also sufficient to taint a decision maker's action with grave abuse of discretion.[33]

By dismissing Tan's petition for annulment of judgment solely based on a technicality and on an irrelevant consideration, the CA acted with grave abuse of discretion. The outright dismissal was also made at the expense of the substantial justice and of the general public who have a right to rely on the integrity of our Torrens system. This amounted to an evasion of its positive duty to uphold the integrity of our Torrens system and to a virtual refusal of its duty to determine and strike down decisions rendered without jurisdiction.

Courts are routinely expected to balance competing state values and interests. When the interest of strictly enforcing rules of procedure comes in conflict with the interests of rendering substantial justice and protecting the general welfare, the scales of justice tilt substantially in favor of the latter. The rules of procedure should not be applied in a very rigid technical sense so as to override substantial justice.[34]

Ultimately, this Court finds that the interests of dispensing justice and of protecting both the general public and the integrity of our Torrens system will best be served by requiring the CA to proceed with the case to determine the truth of Tan's factual allegations.

WHEREFORE, we hereby GRANT the petition. The January 16, 2008 and the July 16, 2008 resolutions of the Court of Appeals in CA-G.R. SP No. 101727 are ANNULLED and SET ASIDE. The Court of Appeals is further DIRECTED to PROCEED hearing the case.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Mendoza, and Leonen, JJ., concur.

[1] Both penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justices Juan Q. Enriquez, Jr. and Vicente S.E. Veloso.

[2] RTC, Marikina City, Branch 193 through Judge Alice G. Gutierrez.

[3] Rollo, p. 4.

[4] Id. at 31.

[5] Id. at 38.

[6] Id. at 33.

[7] Id. at 65.

[8] Id. at 46.

[9] Id. at 50-52.

[10] 324 Phil. 109 (1996).

[11] 272-A Phil. 467 (1991).

[12] Rollo, p. 18.

[13] Id. at 20.

[14] Id. at 25.

[15] 356 Phil. 217 (1998).

[16] G.R. No. 115595, November 14, 1994. 238 SCRA 158, 162.

[17] Rule 47, Section 5 of the RULES OF COURT.

[18] Enriquez v. Rivera, 179 Phil. 482, 486 (1979); Rule 65, Section 1 of the RULES OF COURT.

[19] Villareal v. Aliga, G.R. No. 166995, 13 January 2014, 713 SCRA 52.

[20] Fernando v. Vasquez, G.R. No. L-26417, 30 January 1970, 31 SCRA 288, 292.

[21] Villareal, supra note 19.

[22] Id. Fernando at 293.

[23] People v. Zuluela, G.R. No. L-4017, 89 Phil. 756, 757 (1951); Fernando v. Vasquez, supra note 20 at 294; Enriquez v. Rivera, supra note 18.

[24] Camitan v. Fidelity Investment, Corp., 574 Phil. 672, 685 (2008); Feliciano v. Zaldivar, 534 Phil. 280, 293-294 (2006); Macabalo-Bravo v. Macabalo, 508 Phil. 61, 74 (2005); Heirs of Panganiban v. Dayrit, 502 Phil. 612, 621 (2005); Rexlon Realty Group, Inc. v. Court of Appeals, 429 Phil. 31, 44 (2002); Reyes, Jr. v. Court of Appeals, 385 Phil. 623, 630 (2000); New Durawood, Inc. v. Court of Appeals, 324 Phil 109, 119-120 (1996); Demetriou v. Court of Appeals, supra note 16, at 162.

[25] Uy v. Chua, 616 Phil. 768, 782 (2009).

[26] Banco Español-Filipino v. Palanca, 37 Phil. 921, 949 (1918); Trinidad v. Hon. Yatco, 111 Phil. 466, 470 (1961).

[27] Rollo, p. 19.

[28] Id. at 63, 36.

[29] Id. at 88.

[30] Rule 46, Section 3 in relation to Rule 46, Section 2 of the RULES OF COURT.

[31] Commission on Internal Revenue v. Court of Appeals, 327 Phil. 1, 41 (1996); Salma v. Hon. Miro, 541 Phil. 685, 686 (2007); Ligeralde v. Patalinghug, 632 Phil. 326, 330 (2010).

[32] Id.

[33] Varias v. COMELEC, 626 Phil. 292, 314 (2010); Land Bank of the Philippines v. Yatco Agricultural Enterprises, G.R. No. 172551, 15 January 2014, 713 SCRA 370, 383; Gonzales v. Solid Cement Corporation, 697 Phil. 619, 639 (2012).

[34] Reyes. Jr. v. Court of Appeals, supra note 24, at 629.

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