

LORENZA C. ONGCO, PETITIONER, VS. VALERIANA UNGCO DALISAY, RESPONDENT.*G.R. No. 190810. July 18, 2012*

Ponente: SERENO, J.

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This is a Petition for Review on Certiorari under Rule 45 of the 1997 Revised Rules of Civil Procedure asking the Court to rule whether petitioner may intervene in a land registration case.

The Petition seeks to annul and set aside the Court of Appeals (CA) Resolutions[1] dated 30 September 2009 and 11 November 2009 (assailed Resolutions), which denied petitioner's Motion for Leave to Intervene dated 23 June 2009.

FACTUAL ANTECEDENTS

On 15 October 2007, respondent Valeriana Ungco Dalisay (Dalisay) applied for registration of a parcel of land designated as Lot 1792, Cad-609-D, by filing an Application for Land Registration before the Municipal Trial Court (MTC) of Binangonan, Branch 2.[2] At the hearings, no oppositor aside from the Republic of the Philippines (the Republic) came. Neither was there any written opposition filed in court. Thus, an Order of General Default was issued against the whole world except the Republic. Consequently, on 15 October 2008, the court found respondent Dalisay to have clearly shown a registrable right over the subject property and ordered that a decree of registration be issued by the Land Registration Authority once the Decision had become final.[3] Herein petitioner Lorenza C. Ongco (Ongco) never intervened in the proceedings in the trial court.

The Republic filed an appeal with the CA docketed as CA-G.R. CV No. 92046.[4] While the case was pending appeal, petitioner Ongco filed a "Motion for Leave to Intervene" dated 23 June 2009 with an attached Answer-in-Intervention.[5]

The Answer-in-Intervention sought the dismissal of respondent Dalisay's Application for Land Registration on the ground that, contrary to the allegations of Dalisay, the subject property was not free from any adverse claim. In fact, petitioner Ongco had allegedly been previously found to be in actual possession of the subject land in an earlier case filed before the Department of Environment and Natural Resources (DENR) when she applied for a free patent on the land.[6]

In her Comment/Objection to the Motion for Leave to Intervene, Dalisay contended that Ongco did not have a legal interest over the property.[7] Moreover, the intervention would unduly delay the registration proceeding, which was now on appeal. Besides, petitioner's interest, if any, may be fully protected in a separate and direct proceeding. Additionally, Dalisay pointed out that Section 2, Rule 19 of the Rules of Court was clear that intervention may be filed at any time before rendition of judgment by the trial court, but not at any other time. The Republic, on the other hand, said that it was interposing no objection to the Motion for Leave to Intervene.[8]

On 30 September 2009, the CA issued its first assailed Resolution[9] denying the Motion for Intervention for

having been filed beyond the period allowed by law. It said:

Lorenza C. Ongco's prayer to be allowed to intervene in the instant "MOTION FOR LEAVE TO INTERVENE XXX" is DENIED[,] said motion having been filed beyond the period allowed by law.

Manalo vs. Court of Appeals is emphatic:

Intervention is not a matter of right but may be permitted by the courts only when the statutory conditions for the right to intervene [are] shown. Thus, the allowance or disallowance of a motion to intervene is addressed to the sound discretion of the court. In determining the propriety of letting a party intervene in a case, the tribunal should not limit itself to inquiring whether "a person (1) has a legal interest in the matter in litigation; (2) or in the success of either of the parties; (3) or an interest against both; (4) or when is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof." Just as important, as (the Supreme Court had) stated in *Big Country Ranch Corporation v. Court of Appeals* [227 SCRA 161{1993}], is the function to consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

The period within which a person may intervene is also restricted. Section 2, Rule 19 of the 1997 Rules of Civil Procedure requires:

"SECTION 2. Time to intervene. — The motion to intervene may be filed at any time before the rendition of judgment by the trial court, x x x."

After the lapse of this period, it will not be warranted anymore. This is because, basically, intervention is not an independent action but is ancillary and supplemental to an existing litigation.

Here, the subject motion was filed only on June 23, 2009, way beyond the rendition of the Decision dated October 15, 2008 (subject of the instant appeal by the Office of the Solicitor General) by the Regional Trial Court of Binangonan, Branch 2. As a necessary consequence, the prayed for admission of the instant "ANSWER-IN-INTERVENTION could only be denied, x x x. (Emphases in the original)

Petitioner filed a Motion for Reconsideration,[10] which was also denied in a Resolution dated 11 November 2009.

Hence, the instant Petition for Review under Rule 45.

In her three-page Comment[11] on the Petition, respondent Dalisay briefly argues that the CA did not commit any error, because it properly applied the technical rules of procedure in denying the Motion for Intervention. She also argues that the issues being presented are factual and, as such, not reviewable in a Petition for Review under Rule 45.

In her Reply,[12] petitioner asserts that the issues to be resolved in her Petition are questions of law: whether the requisites for intervention are present, and whether the intervention she is seeking is an exception to the general rule that intervention must be filed before judgment is rendered by the trial court.

Issue for Resolution and the Ruling of the Court

The issue for resolution in the instant case is whether the CA committed reversible error in denying the Motion for Intervention of petitioner.

We rule to deny the Petition.

DISCUSSION

Intervention is a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein for a certain purpose: to enable the third party to protect or preserve a right or interest that may be affected by those proceedings.[13] This remedy, however, is not a right. The rules on intervention are set forth clearly in Rule 19 of the Rules of Court, which reads:

Sec. 1. Who may intervene. - A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

Sec. 2. Time to intervene. - The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties. (Emphasis supplied)

It can be readily seen that intervention is not a matter of right, but is left to the trial court's sound discretion. The trial court must not only determine if the requisite legal interest is present, but also take into consideration the delay and the consequent prejudice to the original parties that the intervention will cause. Both requirements must concur, as the first requirement on legal interest is not more important than the second requirement that no delay and prejudice should result.[14] To help ensure that delay does not result from the granting of a motion to intervene, the Rules also explicitly say that intervention may be allowed only before rendition of judgment by the trial court.

In *Executive Secretary v. Northeast Freight*,^[15] this Court explained intervention in this wise:

Intervention is not a matter of absolute right but may be permitted by the court when the applicant shows facts which satisfy the requirements of the statute authorizing intervention. Under our Rules of Court, what qualifies a person to intervene is his possession of a legal interest in the matter in litigation or in the success of either of the parties, or an interest against both; or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or an officer thereof. As regards the legal interest as qualifying factor, this Court has ruled that such interest must be of a direct and immediate character so that the intervenor will either gain or lose by the direct legal operation of the judgment. The interest must be actual and material, a concern which is more than mere curiosity, or academic or sentimental desire; it must not be indirect and contingent, indirect and remote, conjectural, consequential or collateral. However, notwithstanding the presence of a legal interest, permission to intervene is subject to the sound discretion of the court, the exercise of which is limited by considering "whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties and whether or not the intervenor's rights may be fully protected in a separate proceeding." (Emphasis supplied)

Applying the foregoing points to the case at bar, Ongco may not be allowed to intervene.

Petitioner has not shown any legal interest of such nature that she "will either gain or lose by the direct legal operation of the judgment." On the contrary, her interest is indirect and contingent. She has not been granted a free patent over the subject land, as she in fact admits being only in the process of applying for one.[16] Her interest is at best inchoate. In *Firestone Ceramics v. CA*,^[17] the Court held that the petitioner who anchored his motion to intervene on his legal interest arising from his pending application for a free patent over a portion of the subject land merely had a collateral interest in the subject matter of the litigation. His collateral interest could not have justified intervention.

In any event, the Motion for Intervention was filed only with the CA after the MTC had rendered judgment. By itself, this inexcusable delay is a sufficient ground for denying the motion. To recall, the motion should be filed "any time before rendition of judgment." The history and rationale of this rule has been explained thusly:

1. The former rule as to when intervention may be allowed was expressed in Sec. 2, Rule 12 as "before or during a trial," and this ambiguity also gave rise to indecisive doctrines. Thus, inceptively it was held that a motion for leave to intervene may be filed "before or during a trial" even on the day when the case is submitted for decision (*Falcasantos vs. Falcasantos*, L-4627, May 13, 1952) as long as it will not unduly delay the disposition of the case. The term "trial" was used in its restricted sense, i.e., the period for the introduction for intervention was filed after the case had already been submitted for decision, the denial thereof is proper (*Vigan Electric Light Co., Inc. vs. Arciaga*, L-29207 and L-29222, July 31, 1974). However, it has also been held that intervention may be allowed at any time before the rendition of final judgment (*Linchauco vs. CA, et al*, L-23842, Mar. 13, 1975). Further, in the exceptional case of *Director of Lands vs. CA, et al.* (L-45168, Sept. 25, 1979), the Supreme Court permitted intervention in a case pending before it on appeal in order to avoid injustice and in consideration of the number of parties who may be affected by the dispute involving overlapping of numerous land titles.

2. The uncertainty in these ruling has been eliminated by the present Sec. 2 of this amended Rule which permits the filing of the motion to intervene at any time before the rendition of the judgment in the case, in line with the doctrine in *Lichauco* above cited. The justification advanced for this is that before judgment is rendered, the court, for good cause shown, may still allow the introduction of additional evidence and that is still within a liberal interpretation of the period for trial. Also, since no judgment has yet been rendered, the matter subject of the intervention may still be readily resolved and integrated in the judgment disposing of all claims in the case, and would not require an overall reassessment of said claims as would be the case if the judgment had already been rendered.[18] (Emphases supplied)

Indeed, in *Manalo v. CA*,[19] the Court said:

The period within which a person may intervene is also restricted. Section 2, Rule 19 of the 1997 Rules of Civil Procedure requires:

"SECTION 2. Time to intervene. — The motion to intervene may be filed at any time before the rendition of judgment by the trial court x x x."

After the lapse of this period, it will not be warranted anymore. This is because, basically, intervention is not an independent action but is ancillary and supplemental to an existing litigation. (Emphases supplied)

There is wisdom in strictly enforcing the period set by Rule 19 of the Rules of Court for the filing of a motion for intervention. Otherwise, undue delay would result from many belated filings of motions for intervention after judgment has already been rendered, because a reassessment of claims would have to be done. Thus, those who slept on their lawfully granted privilege to intervene will be rewarded, while the original parties will be unduly prejudiced. This rule should apply more strictly to land registration cases, in which there is a possibility that a great number of claimant-oppositors may cause a delay in the proceedings by filing motions to intervene after the trial court — sitting as a land registration court — has rendered judgment.

Also, it must be noted that a land registration proceeding is an action in rem. Thus, only a general notice to the public is required, and not a personal one. Its publication already binds the whole world, including those who will be adversely affected. This, according to this Court, is the only way to give meaning to the finality and indefeasibility of the Torrens title to be issued as against the argument that the said rule could result in actual injustice.[20] In the present case, the MTC found that the required publication was made by respondent Dalisay when she applied for land registration. That publication was sufficient notice to petitioner Ongco. Thus, petitioner

only had herself to blame when she failed to intervene as soon as she could before the rendition of judgment.

We also note that, had petitioner learned of the trial court proceedings in time, and had she wanted to oppose the application, the proper procedure would have been to ask for the lifting of the order of default and then to file the opposition.[21] It would be an error of procedure to file a motion to intervene. This is because, as discussed above, proceedings in land registration are in rem and not in personam.[22]

Aware of her fatal shortcoming, petitioner Ongco would now like the Court to exceptionally allow intervention even after judgment has been rendered by the MTC in the land registration case. She cites instances in which this Court allowed intervention on appeal. However, the cases she cited are inapplicable to the present case, because the movants therein who wanted to intervene were found by the Court to be indispensable parties. Thus, under Section 7, Rule 3 of the Rules of Court, they had to be joined because, without them, there could be no final determination of the actions. Indeed, if indispensable parties are not impleaded, any judgment would have no effect.

In *Galicia v. Manriquez*,^[23] the first case cited by petitioner, the Court found that the defendant-intervenors were indispensable parties, being the indisputable compulsory co-heirs of the original defendants in the case for recovery of possession and ownership, and annulment of title. Thus, without them, there could be no final determination of the action. Moreover, they certainly stood to be affected by any judgment in the case, considering their "ostensible ownership of the property."

In *Mago v. CA*,^[24] the intervenor was the rightful awardee of a piece of land that was mistakenly awarded by the NHA to another awardee. Thus, the latter was given title to land with an area that was more than that intended to be awarded to him. The NHA then cancelled the title mistakenly awarded and ordered the subdivision of the lot into two. The recipient of the mistakenly awarded title filed a Petition for injunction to enjoin the NHA from cancelling the title awarded. The Petition was granted and the judgment became final. The other awardee filed a Motion to Intervene, as well as a Petition for Relief from Judgment, which were both denied by the trial court. The CA affirmed the Decision of the court a quo. This Court, however, found that the intervention should have been granted, considering the indisputable admission of the NHA, the grantor-agency itself, that the intervenor was the rightful awardee of half of the lot mistakenly awarded. Thus, the intervenor stood to be deprived of his rightful award when the trial court enjoined the cancellation of the mistakenly awarded title and the subdivision of the lot covered by the title. The intervenor's legal interest, in other words, was directly affected.

In the present case, petitioner Ongco is not an indispensable party. As already noted, her interests are inchoate and merely collateral, as she is only in the process of applying for a free patent. Also, the action for land registration may proceed and be carried to judgment without joining her. This is because the issues to be threshed out in a land registration proceeding — such as whether the subject land is alienable and disposable land of the public domain; and whether the applicant or her predecessors-in-interest have been in open, continuous, exclusive and notorious possession of the said land under a bona fide claim of ownership since 12 June 1945, or earlier — can be threshed out without joining petitioner.

True, the evidence to be adduced by petitioner Ongco - to prove that she, not Dalisay, has been in possession of the land subject of the application for registration of respondent — has a bearing on the determination of the latter's right to register her title to the land. In particular, this evidence will help debunk the claim of respondent that she has been in open, continuous, exclusive and notorious possession of the subject parcel of land. In fact, this same evidence must have been the reason why the Republic did not interpose any objection to the Motion for Intervention. None of these facts, however, makes petitioner an indispensable party; for there are many other ways of establishing the fact of open, continuous, exclusive and notorious possession of the subject parcel of land

or the lack thereof.

If any, the only indispensable party to a land registration case is the Republic. Against it, no order of default would be effective, because the Regalian doctrine presumes that all lands not otherwise appearing to be clearly under private ownership are presumed to belong to the State.[25]

In any case, we note that petitioner is not left without any remedy in case respondent succeeds in getting a decree of registration. Under Section 32 of Presidential Decree No. 1529, or the Property Registration Decree, there is a remedy available to any person deprived of land — or of any estate or interest therein - through an adjudication or a confirmation of title obtained by actual fraud. The person may file, in the proper court, a petition for reopening and reviewing the decree of registration within one year from the date of entry thereof. This Court has ruled that actual fraud is committed by a registration applicant's failure or intentional omission to disclose the fact of actual physical possession of the premises by the party seeking a review of the decree. It is fraud to knowingly omit or conceal a fact from which benefit is obtained, to the prejudice of a third person.[26] Thus, if he is so minded, petitioner can still file for a petition to review the decree of registration.

WHEREFORE, premises considered, the instant Petition is DENIED. The Court of Appeals Resolutions dated 30 September 2009 and 11 November 2009, which denied petitioner's Motion for Leave to Intervene in CA-G.R. CV No. 92046, are hereby AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Reyes, JJ., concur.

[1] Rollo, pp. 45-47, 49; in CA-G.R. CV No. 92046, and both penned by Justice Vicente S.E. Veloso and concurred in by Associate Justices Andres B. Reyes, Jr. and Marlene Gonzales-Sison.

[2] Rollo, pp. 250-253; Application for Land Registration of herein respondent Dalisay.

[3] Id. at 51-54; Decision of the MTC-Branch 2 dated 15 October 2008.

[4] Id. at 21.

[5] Id.

[6] Id. at 22.

[7] Id. at 190-195.

[8] Id. at 196-197.

[9] Id. at 45-47.

[10] Id. at 200-205.

[11] Id. at 300-302.

[12] Id. at 305-309.

[13] *Hi-Tone Marketing Corporation v. Baikal Realty Corporation*, 480 Phil. 545 (2004).

[14] *Magsaysay-Labrador v. CA*, 259 Phil 748 (1989).

[15] G.R. No. 179516, 17 March 2009, 581 SCRA 736.

[16] Rollo, p. 22.

[17] 372 Phil. 401 (1999).

[18] FLORENZ D. REGALADO, REMEDIAL LAW COMPENDIUM, Vol. I, 319-320 (9[th] rev. ed. 2005).

[19] 419 Phil. 215(2001).

[20] Francisco v. Court of Appeals, 9 Phil. 186 (1980).

[21] NARCISO PEÑA ET AL., REGISTRATION OF LAND TITLES AND DEEDS, 84 (rev. ed. 2008).

[22] Id.

[23] G.R. No. 155785, 13 April 2007, 521 SCRA 85.

[24] 363 Phil. 225 (1999).

[25] AMADO D. AQUINO, LAND REGISTRATION AND RELATED PROCEEDINGS, 62 (4[th.] ed. 2007) citing Republic v. Sayo, G.R. No. 60413, 31 October 1990, 191 SCRA 71 (1990).

[26] Nicolas v. Director of Lands, 119 Phil. 258 (1963).

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