

MICHAEL A. ONSTOTT, PETITIONER, VS. UPPER TAGPOS NEIGHBORHOOD ASSOCIATION, INC., RESPONDENT.

G.R. No. 221047. September 14, 2016

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the Decision[2] dated May 7, 2015 and the Resolution[3] dated October 8, 2015 rendered by the Court of Appeals (CA) in CA-G.R. CV No. 98383, which reversed and set aside the Order[4] dated January 3, 2012 of the Regional Trial Court of Binangonan, Rizal, Branch 67 (RTC), insofar as it ordered the Register of Deeds of Binangonan, Rizal to cancel Transfer Certificate of Title (TCT) No. B-9655 in the name of respondent Upper Tagpos Neighborhood Association, Inc. (UTNAI) and to reinstate Original Certificate of Title (OCT) No. (-2645-) M-556 in the name of Albert W. Onstott (Albert).

The Facts

Albert, an American citizen, was the registered owner of a parcel of land with an approximate area of 18,589 square meters, covered by OCT No. (-2645-) M-556[5] situated in the Province of Rizal (subject property). Due to non-payment of realty taxes, the Provincial Government of Rizal sold the subject property at public auction to one Amelita A. De Serra (De Serra), the highest bidder, as evidenced by the Certificate of Sale[6] dated June 29, 2004.[7] Respondent UTNAI, an association representing the actual occupants of the subject property, subsequently redeemed[8] the same from De Sena.[9]

Thereafter, or on March 31, 2008, UTNAI filed a complaint[10] for cancellation of OCT No. (-2645-) M-556 and for the issuance of a new title in its name before the RTC against Albert and Federico M. Cas (Cas), the Register of Deeds for the Province of Rizal.[11] It alleged, among others, that it became the owner of the subject property upon redemption thereof from De Sena and that, consequently, it must be issued a new title. Moreover, Albert was an American citizen who, under Philippine law, is not allowed to own a parcel of land in the Philippines.[12]

Efforts to serve summons upon Albert proved futile as he was not a resident of the Philippines. Thus, summons was served through publication.[13] Nonetheless, Albert still failed to file his answer. Hence, upon the motion of UTNAI, Albert was declared in default and UTNAI was allowed to present evidence ex parte.[14]

The RTC Ruling and Subsequent Proceedings

In a Decision[15] dated March 30, 2009, the RTC found that UTNAI was able to prove, by a preponderance of evidence, that it is the owner of the subject property after having legally redeemed the same from De Serra, the highest bidder at a public auction. Accordingly, it directed Cas to: (1) annotate its Decision on OCT No. (-2645-) M-556; (2) cancel the same; and (3) issue a new title in the name of UTNAI.[16]

In an Order[17] dated June 16, 2009, the RTC clarified that its March 30, 2009 Decision directing the cancellation of OCT No. (-2645-) M-556 and the issuance of a new one in its stead in the name of UTNAI necessarily includes a declaration that the owner's duplicate copy of OCT No. (-2645-) M-556 is void and of no effect.

The RTC Decision lapsed into finality. As a consequence, TCT No. B-9655 was issued in favor of UTNAI.[18]

On August 26, 2009, herein petitioner Michael Onstott (Michael), claiming to be the legitimate son[19] of Albert with a certain Josephine Arrastia Onstott (Josephine) filed a Petition for Relief from Judgment (Petition for Relief),[20] alleging that UTNAI, in its complaint, impleaded only Albert, notwithstanding knowledge of the latter's death.[21] He averred that, as parties to the case, UTNAI fraudulently and intentionally failed to implead him and Josephine in order to prevent them from participating in the proceedings and to ensure a favorable judgment.[22] He contended that his mother Josephine was an indispensable party to the present case, being the owner of half of the subject property, which he claimed to be conjugal in nature.[23] Moreover, he argued that UTNAI had no legal personality to redeem the subject property as provided for in Section 261[24] of Republic Act No. (RA) 7160, otherwise known as the "Local Government Code of 1991." [25]

Later, Michael filed an Omnibus Motion:[26] (1) to recall and/or set aside the Certification of Finality of Judgment; (2) to set aside the Order dated June 16, 2009; and (3) to cancel TCT No. B-9655 and reinstate OCT No. (-2645-) M-556. He maintained that, based on the records, the Decision dated March 30, 2009 of the RTC was not served upon the defendant, Albert, by publication, as required under Section 9,[27] Rule 13 of the Rules of Court; hence, the same has not yet attained finality.[28] Accordingly, the Certification of Finality of the said Decision was prematurely issued and must therefore be set aside.[29] In addition, TCT No. B-9655 in favor of UTNAI must be cancelled and OCT No. (-2645-) M-556 in the name of Albert should be reinstated.

Treating the Petition for Relief as a motion for reconsideration[30] of its Decision, the RTC, in an Order[31] dated January 3, 2012, denied the same and ruled that UTNAI, having legal interest in the subject property and having redeemed the same from the highest bidder in a tax auction, must be issued a new title in its name. It added that the matters raised by Michael are best ventilated in a separate case for reconveyance. However, while the RTC denied the petition, it found that its March 30, 2009 Decision never attained finality for not having been served upon Albert by publication in accordance with Section 9, Rule 13 of the Rules of Court. Thus, the issuance of the certificate of finality was erroneous. Consequently, the cancellation of OCT No. (-2645-) M-556 in Albert's name and the issuance of TCT No. B-9655 in UTNAI's name were premature; hence, it directed the Register of Deeds to cancel TCT No. B-9655 and to reinstate OCT No. (-2645-) M-556.[32]

Dissatisfied, both parties separately appealed[33] to the CA. In its appeal, UTNAI ascribed error to the RTC in finding that its March 30, 2009 Decision never attained finality for failure to publish the same and that it also erred in declaring that the cancellation of OCT No. (-2645-) M-556 in Albert's name and the issuance of TCT No. B-9655 in its name were premature.[34]

On the other hand, Michael insisted that at the time of the filing of the instant case in 2008, Albert was already dead, which means that the ownership of the subject property had already devolved to his compulsory heirs. Consequently, the latter should have been impleaded as defendants, failing which, the Decision rendered by the RTC was null and void for lack of jurisdiction. Moreover, he asserted that his mother Josephine was an indispensable party to this case, being a compulsory heir and the owner of the half portion of the subject property, which he claimed was conjugal in nature. He reiterated that UTNAI had no legal interest to redeem the subject property.[35]

The CA Ruling

In a Decision[36] dated May 7, 2015, the CA found UTNAI's appeal meritorious. Although it found that the March 30, 2009 Decision of the RTC did not attain finality, not having been served upon Albert by publication, the CA also held that UTNAI was entitled to the issuance of a new title in its name as a matter of right. It concurred with UTNAI's contention that the cancellation of Albert's OCT No. (-2645-) M-556 is the direct legal

consequence of UTNAI's redemption of the subject property from the highest bidder at the public auction sale. Thus, as the absolute owner of the subject property, UTNAI has the right to be placed in possession thereof following the consolidation of ownership in its name and the issuance of the corresponding title.[37]

On the other hand, the CA dismissed Michael's appeal and rejected his theory that his mother Josephine was an indispensable party to the complaint filed by UTNAI against Albert. It found that the subject property was registered in the name of "Albert Onstott, American citizen, married to Josephine Arrastia" which is merely descriptive of the civil status of Albert and does not show that Josephine co-owned the subject property. Hence, contrary to Michael's stance, the subject property was not conjugal in nature and it cannot be presumed to be conjugal in the absence of evidence showing that it was acquired during their marriage.[38]

Furthermore, the CA pointed out that if Michael were indeed Albert's compulsory heir, he could have transferred the subject property in his name by right of succession upon his father's death, or redeemed the same in 2005 after it was sold at public auction in 2004, or intervened in the proceedings before the RTC. Having failed to avail of any of the said legal remedies, he can no longer claim ownership of the subject property by the simple expedient of filing a petition for relief. Parenthetically, considering that the March 30, 2009 Decision of the RTC had not yet attained finality as of the filing of said petition for relief, the same was without legal basis.[39]

Meanwhile, it appears that UTNAI published a copy of the March 30, 2009 Decision of the RTC for two (2) consecutive weeks in a newspaper of general circulation.[40]

In view of its findings, the CA reversed and set aside the Order dated January 3, 2012 rendered by the RTC, insofar as it directed the Register of Deeds to cancel TCT No. B-9655 issued in UTNAI's name and reinstate OCT No. (-2645-) M-556 in the name of Albert. It likewise declared the March 30, 2009 Decision of the RTC final and executory.[41]

Michael's motion for reconsideration[42] was denied in a Resolution[43] dated October 8, 2015; hence, this petition.

The Issue Before the Court

The issue to be resolved by the Court is whether or not the CA erred in directing the issuance of a title in favor of UTNAI notwithstanding (a) the lack of jurisdiction over the person of Albert, the registered owner of the subject property who has been dead prior to the institution of UTNAI'S complaint; (b) the failure to implead his mother, Josephine, as an indispensable party, since the subject property was allegedly conjugal in nature; and (c) the lack of legal interest on the part of UTNAI to redeem the subject property.

The Court's Ruling

The petition is partly meritorious.

Courts acquire jurisdiction over the plaintiffs upon the filing of the complaint. On the other hand, jurisdiction over the defendants in a civil case is acquired either through the service of summons upon them or through their voluntary appearance in court and their submission to its authority.[44]

In *Philippine Commercial International Bank v. Spouses Dy Hong Pi*,[45] it was ruled that "[a]s a general proposition, one who seeks an affirmative relief is deemed to have submitted to the jurisdiction of the court. It is by reason of this rule that we have had occasion to declare that the filing of motions to admit answer, for additional time to file answer, for reconsideration of a default judgment, and to lift order of default with motion for reconsideration, is considered voluntary submission to the court's jurisdiction. This, however, is tempered by the concept of conditional appearance, such that a p who makes a special appearance to challenge, among others,

the court's jurisdiction over his person cannot be considered to have submitted to its authority. Prescinding from the foregoing, it is thus clear that:

- (1) Special appearance operates as an exception to the general rule on voluntary appearance;
- (2) Accordingly, objections to the jurisdiction of the court over the person of the defendant must be explicitly made, i.e., set forth in an unequivocal manner; and
- (3) Failure to do so constitutes voluntary submission to the jurisdiction of the court, especially in instances where a pleading or motion seeking affirmative relief is filed and submitted to the court for resolution."^[46]

In this case, records show that Albert, the defendant in UTNAI's complaint, died in the United States of America in 2004.^[47] Thus, on the strength of his right as Albert's compulsory heir who has an interest in the subject property, Michael filed the Petition for Relief before the RTC, assailed the proceedings therein for failure to implead him and his mother, Josephine, as an indispensable party, and sought affirmative relief, i.e., the reversal of the RTC's March 30, 2009 Decision and the reinstatement of OCT No. (-2645-) M-556.^[48] The RTC, holding that its own Decision never attained finality for failure to publish the same, treated the Petition for Relief as a motion for reconsideration and after due proceedings, ruled upon its merits.

Based on the foregoing factual milieu, the Court finds that although it may be true that jurisdiction was not initially acquired over the person of the defendant,^[49] i.e., Albert in this case whose death, notably, was never brought to the attention of the RTC until after it rendered judgment the defect in the lack of jurisdiction over his person was effectively cured by the voluntary appearance of his successor-in-interest/compulsory heir, Michael, who sought affirmative relief before the RTC through the filing of the Petition for Relief which the RTC treated as a motion for reconsideration of its judgment. Michael voluntarily submitted to the jurisdiction of the RTC when, without any qualification, he directly and squarely challenged the RTC's March 30, 2009 Decision as aforementioned. Having sought positive relief from an unfavorable judgment, the RTC, therefore, acquired jurisdiction over his person, and the due process requirements of the law have been satisfied.

That the RTC Decision was null and void for failure to implead an indispensable party, Josephine, on the premise that the subject property is conjugal in nature, is likewise specious. Michael posits that Josephine, being Albert's wife, was entitled to half of the portion of the subject property, which was registered as "Albert Onstott, American citizen, married to Josephine Arrastia."

The Court is not convinced.

Article 160 of the New Civil Code^[50] provides that all property of the marriage is presumed to belong to the conjugal partnership, unless it is proved that it pertains exclusively to the husband or to the wife. However, the party who invokes this presumption must first prove that the property in controversy was acquired during the marriage. Proof of acquisition during the coverture is a condition sine qua non for the operation of the presumption in favor of the conjugal partnership. The party who asserts this presumption must first prove the said time element. Needless to say, the presumption refers only to the property acquired during the marriage and does not operate when there is no showing as to when the property alleged to be conjugal was acquired. Moreover, this presumption in favor of conjugality is rebuttable, but only with strong, clear and convincing evidence; there must be a strict proof of exclusive ownership of one of the spouses.^[51]

As Michael invokes the presumption of conjugality, he must first establish that the subject property was acquired during the marriage of Albert and Josephine, failing in which, the presumption cannot stand. Indeed, records are bereft of any evidence from which the actual date of acquisition of the subject property can be ascertained. Considering that the presumption of conjugality does not operate if there is no showing when the property alleged

to be conjugal was acquired,[52] the subject property is therefore considered to be Albert's exclusive property. Consequently, Michael's insistence that Josephine who, the Court notes, has never personally appeared in these proceedings to directly challenge the disposition of the subject property sans her participation is a co-owner thereof and necessarily, an indispensable party to the instant case, must therefore fail.

With respect, however, to the question of whether UTNAI has legal interest to redeem the subject property from the highest bidder at the tax delinquency public auction sale, the Court finds that the CA erred in its disquisition. Section 261 of RA 7160 provides:

Section 261. Redemption of Property Sold. - Within one (1) year from the date of sale, the owner of the delinquent real property or person having legal interest therein, or his representative, shall have right to redeem the property upon payment to the local treasurer of the amount of the delinquent tax, including the interest due thereon, and the expenses of sale from the date of delinquency to the date of sale, plus interest of not more than two percent (2%) per month on the purchase price from the date of the sale to the date of redemption. Such payment shall invalidate the certificate of sale issued to the purchaser and the owner of the delinquent real property or person having legal interest therein shall be entitled to a certificate of redemption which shall be issued by the local treasurer or his deputy.

From the date of sale until expiration of the period of redemption, the delinquent real property shall remain in the possession of the owner or person having legal interest therein who shall be entitled to the income and other fruits thereof.

The local treasurer or his deputy, upon receipt from the purchaser of the certificate of sale, shall forthwith return to the latter the entire amount paid by him plus interest of not more than two percent (2%) per month. Thereafter, the property shall be free from the lien of such delinquent tax, interest due thereon and expenses of sale. (Emphasis supplied)

"Legal interest" is defined as interest in property or a claim cognizable at law, equivalent to that of a legal owner who has legal title to the property.[53] It must be one that is actual and material, direct and immediate, not simply contingent or expectant.[54] Moreover, although the taxable person who has actual and beneficial use and possession of a property may be charged with the payment of unpaid realty tax due thereon, such assumption of liability does not clothe the said person with the legal title or interest over the property.[55]

In this case and based on the above-given definition, UTNAI, whose members are the occupants of the subject property, has no legal interest to redeem the same. Mere use or possession of the subject property alone does not vest them with legal interest therein sufficient to clothe them with the legal personality to redeem it, in accordance with Section 261 above-quoted. To rule otherwise would be to defeat the true owner's rights by allowing lessees or other occupants of a property to assert ownership by the simple expedient of redeeming the same at a tax delinquency sale. Consequently, UTNAI's redemption of the subject property as well as the issuance of a Certificate of Redemption[56] in its favor was erroneous. Since the redemption is of no legal effect, the said Certificate of Redemption must therefore be cancelled, without prejudice to the right of UTNAI to recover the full amount of the redemption price paid by it in the appropriate proceeding therefor.

As things stand, UTNAI's redemption should be deemed void for being contrary to law. As a result, all proceedings springing from the redemption ought to be nullified[57] and the status quo prior thereto should revert. Thus, as previously stated, UTNAI may recover the full amount it had paid for the redemption of the property subject of the public auction in the appropriate proceeding therefor. In the same vein, De Sena and the Provincial Government of Rizal, who have not been impleaded as parties in this case, may commence the appropriate proceedings to assert their rights under the law consequent to this disposition.

WHEREFORE, the petition is PARTLY GRANTED. The Certificate of Redemption issued by the Provincial

Treasurer of the Provincial Government of Rizal in favor of respondent Upper Tagpos Neighborhood Association, Inc. is hereby declared VOID and of no legal effect, and Transfer Certificate of Title No. B-9655 issued in the latter's name shall be permanently CANCELLED.

SO ORDERED.

Sereno, C. J., (Chairperson), Leonardo-De Castro, and Caguioa, JJ., concur.
Bersamin, J., on official leave.

[1] Rollo, pp. 7-24.

[2] Id. at 34-45. Penned by Associate Justice Sesinando E. Villon with Associate Justices Rodil V. Zalameda and Carmelita Salandanan Manahan concurring.

[3] Id. at 47-48.

[4] Id. at 145-146. Penned by Presiding Judge Dennis Patrick Z. Perez.

[5] Id. at 53-54-A.

[6] Id. at 76.

[7] Id. at 34-35.

[8] See Certificate of Redemption, id. at 121.

[9] Id. at 35.

[10] Id. at 49-52.

[11] Id. at 35.

[12] Id. at 50.

[13] See Order dated July 9, 2008, id. at 64; See also pp. 67-72.

[14] Id. at 35.

[15] Id. at 80. Penned by Presiding Judge Dennis Patrick Z. Perez.

[16] Id. at 35-36.

[17] See CA Decision, id. at 36-37.

[18] Id. at 36.

[19] See Certificate of Birth; id. at 109.

[20] Id. at 81-89.

[21] Id. at 82-83.

[22] Id. at 83.

[23] Id.

[24] Section 261. Redemption of Property Sold. - Within one (1) year from the date of sale, the owner of the

delinquent real property or person having legal interest therein, or his representative, shall have the right to redeem the property upon payment to the local treasurer of the amount of the delinquent tax, including the interest due thereon, and the expenses of sale from the date of delinquency to the date of sale, plus interest of not more than two percent (2%) per month on the purchase price from the date of sale to the date of redemption. Such payment shall invalidate the certificate of sale issued to the purchaser and the owner of the delinquent real property or person having legal interest therein shall be entitled to a certificate of redemption which shall be issued by the local treasurer or his deputy.

From the date of sale until the expiration of the period of redemption, the delinquent real property shall remain in possession of the owner or person having legal interest therein who shall be entitled to the income and other fruits thereof.

The local treasurer or his deputy, upon receipt from the purchaser of the certificate of sale, shall forthwith return to the latter the entire amount paid by him plus interest of not more than two percent (2%) per month. Thereafter, the property shall be free from the lien of such delinquent tax, interest due thereon and expenses of sale.

[25] Entitled "AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991," approved on October 10, 1991.

[26] Rollo, pp. 90-93.

[27] Section 9. Service of judgments, final orders or resolutions. - Judgments, final orders or resolutions shall be served either personally or by registered mail. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him shall be served upon him also by publication at the expense of the prevailing party.

[28] Rollo, p. 91.

[29] Id. at 91-92.

[30] See Order dated December 28, 2009; rollo, p. 104.

[31] Id. at 145-146. Penned by Presiding Judge Dennis Patrick Z. Perez.

[32] Id.

[33] See Appellant's Brief dated October 30, 2012 id. at 147-184; See Appellee's Brief dated January 17, 2013; id. at 187-199.

[34] Id. at 38-39.

[35] Id. at 39.

[36] Id. at 34-45.

[37] Id. at 39-41.

[38] Id. at 41-43.

[39] Id. at 43-44.

[40] Id. at 22.

[41] Id. at 44.

[42] Id. at 262-273.

[43] Id. at 47-48.

[44] *Chu v. Mach Asia Trading Corporation*, 707 Phil. 284, 290 (2013).

[45] 606 Phil. 615 (2009), cited in *Reicon Realty Builders Corp. v. Diamond Dragon Realty and Management, Inc.*, G.R. No. 204796, February 4, 2015, 750 SCRA 37, 52-53.

[46] Id. at 633-634. Emphasis supplied.

[47] Rollo, p. 110.

[48] See Petition for Relief; id. at 82.

[49] See *Boston Equity Resources, Inc. v. CA*, 711 Phil. 451, 467 (2013).

[50] The law which would apply to Albert and Josephine's alleged marriage as may be inferred from the rollo, p. 112.

[51] *Dela Peña v. Avila, Co.*, 681 Phil. 553, 563-564 (2012).

[52] *Spouses Gov. Yamane*, 522 Phil. 653, 663 (2006).

[53] *National Power Corp. v. Province of Quezon*, 624 Phil. 738, 748 (2010).

[54] Id. at 745, citing *Cariño v. Ofilada*, G.R. No. 102836, January 18, 1993, 217 SCRA 206, 216.

[55] Id. at 751.

[56] Rollo, p. 121.

[57] "All proceedings founded on the void judgment [or act] are themselves regarded as invalid. In other words, a void judgment [or act] is regarded as a nullity, and the situation is the same as it would be if there were no judgment [or act]. It, accordingly, leaves the parties litigants in the same position they were in before x x x" (*Republic v. CA*, 368 Phil. 412, 425 [1999]; words in brackets supplied.)

"All acts perfonned under a void order or judgment and all claims flowing out of it are also void, for like the spring that cannot rise above its source, a void order cannot create a valid and legally enforceable right." (*Caro v. CA*, 242 Phil. 1, 7 [1988].)

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