

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. INTERMEDIATE APPELLATE COURT, MUTALIB SUSUKAN, NORORA BASA, HAJAL INDAL, BERJIN AMILABAS, DAYANG DAYANG IN, NORIA ABDUL AND KALUYA Y...

G.R. No. 71835. April 30, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review on certiorari seeking the reversal of the decision of the respondent Intermediate Appellate Court (now Court of Appeals) dated August 13, 1985 which affirmed in toto the order of the Regional Trial Court of Sulu, Branch IV, Jolo, Sulu granting the petition for reconstitution of the Original Certificate of Title in the name of Maharajah Sacandal, Moro Indulang and Mora Dayang Sitti Fatima and ordering the Register of Deeds of Sulu to reconstitute and issue the certificate of title in the name of the aforementioned registered owners.

The antecedent facts are as follows:

On December 23, 1982 Mutalib Susukan filed with the Court of First Instance (now Regional Trial Court) of Sulu a petition for reconstitution of the destroyed Transfer Certificate of Title No. 566 of the Registrar of Deeds of Sulu, covering Lot No. 133-B with an area of 1,614,074 square meters.

The petition alleges that Moro Indulang, grandfather of Susukan, and Maharajah Sacandal are the registered owners of Lot No. 133-B. Susukan along with his father and other relatives as well as the heirs of Sacandal possess and occupy the said lot. On February 8, 1974, the original copy of the certificate of title in the custody of the Registrar of Deeds of Sulu was lost and destroyed by fire but the owner's duplicate copy remained in the possession of Susukan.

It also alleges that the certificate of title is free from any lien or encumbrances; neither was there a deed of instrument affecting said lot and that no co-owner's, mortgagee's or lessee's duplicate copy of the title was ever issued.

By an order dated January 13, 1983, the petition was set for initial hearing and pursuant to the provisions of Republic Act No. 26, the aforementioned order was published in the Official Gazette and likewise posted in the required places.

On February 4, 1983, the Solicitor General entered his appearance and authorized the provincial fiscal to represent the same. The notice of appearance specifically requested the provincial fiscal to appear in the case, to wit:

“The Provincial Fiscal of Sulu has been authorized to appear in this case and therefore should also be furnished notices of hearings, orders, resolutions, decisions and other processes. However, as the Solicitor General retains supervision and control of the representation in this case and has to approve withdrawal of the case, non-appeal, or other actions which appear to compromise the interests of the Government, only notices of

orders, resolutions, and decisions served on him will bind the party represented.” (Rollo, p. 19)

On July 22, 1983 Norora Basa, Hajal Indal, Barjin Amilabas, Dayang Dayang In, Noria Abdul and Kaluya Yosup filed an opposition to the petition for reconstitution alleging that they are the heirs of Moro Dayang Sitti Fatima, the third registered owner of the subject lot.

The oppositors further allege that the owner’s duplicate copy in the possession of Susukan is not the real or genuine copy of the certificate of title because the same was copied from a tampered one which erased the name of Mora Dayang Sitti Fatima as one of the registered owners.

In order to prove that the late Mora Dayang Sitti Fatima was one of the registered owners of the said lot, the oppositors presented the following:

“(1) a certification from the Bureau of Lands dated June 8, 1983 (Annex A) to the effect that Lot 133-B with an area of more or less 164. 7853 is a decreed property registered in the names of Maharajah Sacandal, Moro Indulang and Mora Dayang Sitti Fatima;

(2) a decision in Civil Case No. 457 for recovery of possession concerning said Lot 133-B, dated June 21, 1963, showing that Maharajah Sacandal, Moro Indulang and Mora Dayang Sitti Fatima were the registered owners and which also decided once and for all the respective shares of each and everyone of their heirs.” (Rollo, p. 48)

Furthermore, the oppositors prayed that the reconstitution be held in abeyance until the authentic copy of the decree covering said lot is secured from the land registration office in Manila to be the basis of reconstitution.

After a pre-trial conference between Susukan and the oppositors, both parties agreed to enter into a compromise agreement so long as the name of Mora Dayang Sitti Fatima be included as one of the registered owners of the said lot. The provincial fiscal interposing no objection agreed to sign the compromise agreement dated August 29, 1983.

On September 12, 1983, the lower court rendered judgment granting the petition for reconstitution, the dispositive portion is hereunder quoted as follows:

“CONSIDERING the same to be in accordance with law and evidence, the compromise agreement is hereby ordered approved and judgment is rendered in accordance therewith, granting the petition for reconstitution of the Original Certificate of Title in the names of Maharajah Sacandal, Moro Indulang and Mora Dayang Sitti Fatima, stating their status and personal circumstances as herein shown. The Register of Deeds of Sulu is hereby ordered to reconstitute and issue the Certificate of Title in the name of the three registered owners based upon the documents to be forwarded by the Clerk of Court of this court and upon showing the certificate of payment of all real property taxes from 1974 up to the current year.

SO ORDERED.” (Rollo, pp. 28-29)

From said judgment, the government through the Solicitor General interposed an appeal before the respondent Intermediate Appellate Court (now Court of Appeals).

On August 13, 1985, the appellate court rendered a decision affirming in toto the findings of the lower court.

Hence, this petition.

Petitioner raised two (2) assignment of errors, to wit:

“(1)

Whether or not the act of the Provincial Fiscal of Sulu in signing the compromise agreement dated August 29,

1983, without first securing the approval of the Solicitor General, is binding upon the petition (sic);

“(2)

Whether or not there is substantial evidence to support the decision dated August 13, 1985 of respondent Intermediate Appellate Court, which affirmed the decision dated September 12, 1983 of the trial court granting the petition for reconstitution of T.C.T. No. 566 of the Registry of Deeds of Sulu. (Rollo, p. 18)

Petitioner contends that the act of the provincial fiscal in signing the compromise agreement which was the sole basis of the judgment of the lower court in granting the petition for reconstitution is not binding because it violated the authority vested on the fiscal expressly provided for in the notice of appearance filed by the Solicitor General which specifically states that the latter has to approve actions which appear to compromise the interests of the Government.

However, the respondents maintain that the authority granted to the provincial fiscal in the notice of appearance was not violated by the same because there was no interest of the government that was prejudiced by the mere act of the fiscal in signing the compromise agreement.

Furthermore, the petitioner alleges that the decision of the lower court was not supported by substantial evidence, to wit:

(1) “The alleged owner’s duplicate copy of T.C.T. No. 566, attached to the petition for reconstitution filed with the trial court, is not a reliable evidence.” (Rollo, p. 21)

x x x x x x x x

(2) “The records of this case show that there was no evidence whatsoever presented by any of the parties to prove that the original of T.C.T. No. 566 was validly issued and still existing as of February 8, 1974 when it was allegedly destroyed.” (Ibid)

x x x x x x x x

(3) “But even assuming that the two (2) documents were adduced in evidence, still they are not sufficient basis for the reconstitution of T.C.T. No. 566.” (Rollo, p. 23)

On the other hand, the respondents claim that there is substantial evidence in support of the decision of the trial court. They submitted a certificate from the Bureau of Lands and a copy of the decision of the lower court proving the ownership of the three registered owners. They contend that these documents together with the compromise agreement are considered sufficient bases for the judgment granting reconstitution.

We find the petition devoid of merit.

In order to forestall, if not eliminate entirely, anomalous or irregular reconstitution of lost or destroyed land certificates of title and, pursuant to the provisions of Section 6, subsections (b) and (d) and Section 110 of Presidential Decree No. 1529, the Land Registration Commission (now Land Registration Administration) adopted LRC Circular No. 35, dated 13 June 1983. (Noblejas and Noblejas, Registration of Land Titles and Deeds, 1986 Edition, p. 211)

The power or authority of the provincial fiscal by himself and not merely in representation of the Solicitor General, to appear for and protect the interests of the government in reconstitution cases is expressly provided for in the aforementioned circular, the pertinent portions of which are hereunder quoted as follows:

“1. Certificates of title lost or destroyed for any cause shall be judicially reconstituted in accordance with the provisions of Republic Act No. 26, and its implementing rules and regulations, Circulars, memoranda and Administrative Orders relative to judicial reconstitution of lost or destroyed certificates of title insofar as not inconsistent with this circular.

2. All petitions for reconstitution shall be directly filed in duplicate with the clerk of court of the Regional Trial Court of the province or city where the property is situated serving copies thereof and its annexes to the following:

- a. The Registrar of Deeds concerned
- b. The Director of Lands
- c. The Solicitor General
- d. The corresponding Provincial or City Fiscal.

x x x x x x x x

7. x x x

Notices of hearings shall also be given to the Registrar of Deeds of the place where the property is located, the Administrator of the NALTDRA (now Land Registration Administration) and the provincial or city fiscal of the province or city where the land is located who shall appear for and protect the interests of the government in court on the basis of the report and recommendations of the Administrator of the NALTDRA (now LRA) and the Registrar of Deeds concerned which are required to be submitted to the Court.

x x x x x x x x

16. Should an order or judgment granting reconstitution be issued by the Court without awaiting the report and the recommendations of this administration as well as the verification of the Registrar of Deeds concerned, or while the examination, verification and preparation of the report and recommendation are still pending in the said office due to the failure of the clerk of court or the petitioner to comply with all the necessary requirements as called for herein, and it appears that there is a valid ground to oppose the reconstitution, a motion to set aside the order/judgment shall be filed by the Administrator of the NALTDRA (now LRA) and/or the Registrar of Deeds thru the Solicitor General or the provincial or city fiscal concerned.

x x x x x x x x”

We therefore rule that the act of provincial fiscal in signing the compromise agreement was in accordance with his duty to appear for and protect the interests of the government in court in petitions for reconstitution (Ibid, pp. 211-215).

Besides, the absence of any opposition on the part of the government to the petition for reconstitution despite having been duly served copies of the petition and its annexes through the Registrar of Deeds, Director of Lands, Solicitor General and the Provincial Fiscal shows that the government has no contrary evidence with which to contest and frustrate the petition. Thereafter, when judgment was rendered based on the compromise agreement without awaiting the report and recommendation of the Land Registration Administration and the verification of the Registrar of Deeds concerned, its failure to file a motion to set aside the judgment of the court after due notice likewise proves that no interest of the government was prejudiced by such judgment.

Anent the allegation that there was no sufficient evidence to grant the petition for reconstitution, We find that such allegation has no leg to stand on.

Section 3 of Republic Act No. 26 provides for the sources or bases for reconstitution of certificates of title, to wit:

“Sec. 3. Transfer certificates of title shall be reconstituted from such of the sources hereunder enumerated as

may be available, in the following order:

(a)

The owner's duplicate of the certificate of title;

(b)

The co-owner's, mortgagee's, or lessee's duplicate of the certificate of title;

(c)

A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;

(d)

The deed of transfer or other document, on file in the Registry of Deeds, containing the description of the property, or an authenticated copy thereof, showing that its original had been registered, and pursuant to which the lost or destroyed transfer certificate of title was issued;

(e)

A document, on file in the Registry of Deeds by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original had been registered; and

(f)

Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title."

As mentioned earlier, Susukan presented the owner's duplicate of the certificate of title. However, upon an objection raised by the oppositors on the basis of the absence of the name of one of the registered owners, said oppositors presented two other documents, namely the certificate from the Bureau of Lands and a copy of the decision of the lower court to prove not only the ownership of the third registered owner but of all the registered owners. These documents readily fall under Section 3 (f) of Republic Act No. 26. We therefore affirm the findings of both the lower and appellate courts and rule that these documents are sufficient and proper bases for reconstituting the burned or destroyed original certificate of title.

Hence, if the court after hearing finds that the evidence presented is sufficient and proper to warrant the reconstitution of the lost (or destroyed) certificate of title and that the petitioner is the registered owner of the property, and said certificate was in force at the time it was lost (or destroyed), the duty of the court is to issue the order of reconstitution. This duty is mandatory. The law does not give the court discretion to deny the reconstitution if all the basic requirements have been complied with. (*Director of Lands v. Gan Tan*, 89 Phil 184)

All premises considered, the Court is convinced that the appellate court committed no error in affirming in toto

the decision of the lower court granting the petition for reconstitution.

ACCORDINGLY, the petition is DENIED.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Griño-Aquino, JJ., concur.

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