

BORRROMEO BROS. ESTATE, INC., Petitioner, vs. EDGAR JOHN A. GARCIA, Respondent.

G.R. Nos. 139594-95. February 26, 2008

Ponente: PUNO, CJ.

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PUNO, CJ.:

Before us is a petition for review on certiorari which seeks the reversal of the Consolidated Decision[1] and Resolution[2] of the Court of Appeals in CA-G.R. Sp. Nos. 47049 and 48512 which affirmed the Orders[3] of the Regional Trial Court (RTC) to annotate an easement of road right of way on the title of petitioner Borromeo Bros. Estate, Inc. in favor of respondent Edgar John A. Garcia.

On August 17, 1938, Patricia Ruedas Vda. De Andrada (Patricia) executed, for valuable consideration, a document granting a road right of way to spouses Gil Garcia and Teresa Escaño de Garcia (Garcia couple) over Lot No. 6-H-2 described in Transfer Certificate of Title (TCT) No. 20923:

I, PATRICIA RUEDAS VDA. DE ANDRADA (Filipina, of legal age, widow and with residence and postal address at No. 28 Fructuoso Ramos St., City of Cebu, Philippines), for and in consideration of the sum of TEN PESOS (10.00) to be paid in hand by the spouses GIL GARCIA and TERESA ESCAÑO DE GARCIA (Filipinos, both of legal ages (sic) and residing at Fructuoso Ramos St. (interior), City of Cebu, Philippines), do hereby grant unto said spouses Gil Garcia and Teresa Escaño de Garcia a right of way over lot number SIX-H-TWO (6-H-2), described in the Transfer Certificate of Title numbered TWENTY THOUSAND NINE HUNDRED TWENTY FIVE (20925) in the office of the Register of Deeds for the province of Cebu.[4]

On September 28, 1938, Patricia sold the property to petitioner. The Deed of Sale contained a provision that “the purchase of Lot No. 6-H-2 was subject to the right of way granted by me (Patricia Ruedas Vda. de Andrada) to the spouses Gil Garcia and Teresa Escaño de Garcia.”

On April 17, 1952, the Garcia couple went to the Court of First Instance (CFI) of Cebu and moved for the annotation of the August 17, 1938 document executed by Patricia on TCT No. RT-3972.

On June 28, 1952, the CFI of Cebu, through Judge Ignacio Debuque, ordered:

No opposition having been filed to the motion of the spouses Gil Garcia and Teresa Escaño, through Atty. Vicente Faelnar, dated April 17, 1952, it appearing that the Borromeo Bros. Estate, Inc. [herein petitioner], through Atty. Filiberto Leonardo, received a copy of the notice of hearing of said motion on June 24, 1952, the Register of Deeds for the City and Province of Cebu is hereby ordered to annotate on Transfer Certificate of Title No. RT-3972 the contents of the documents ratified on August 18, 1938 in said motion.

SO ORDERED.

Petitioner retained ownership over Lot No. 6-H-2 whereas the estate of the late Garcia couple (Garcia Estate) was inherited by Vicente E. Garcia and Jose E. Garcia from whom respondent acquired his title in 1996.

Sometime after acquiring the Garcia Estate, respondent came across the 1952 documents that granted to the

deceased Garcia couple a road right of way through petitioner's Lot No. 6-H-2. Thus, on May 19, 1997, respondent filed, before the RTC of Cebu, a cadastral court, a petition captioned "Engineer Edgar John A. Garcia v. The Register of Deeds of Cebu City G.I.R.O. Rec. No. 5988, Lot No. 6-H-2." The petition, in which only the Register of Deeds was impleaded, prayed that:

WHEREFORE, premises considered, this Honorable Court is most respectfully prayed to issue an Order directing the Register of Deeds for the City of Cebu to inscribe and annotate in the TCT No. RT-3972 a road right of way indicated in the motion dated April 17, 1997 x x x x after payment of the corresponding registration fees prescribed by law.

The cadastral court issued on June 6, 1997 an Order requiring the Register of Deeds "to inform this [c]ourt regarding the status of the aforementioned title, whether it has already been cancelled or not, the encumbrances/annotations therein, and in whose name it is now." [5]

In its Comment/Manifestation, the Register of Deeds informed the cadastral court that Lot No. 6-H-2 covered by TCT No. RT-3972 is registered under herein petitioner's name and that it "appears to be clean and devoid of any encumbrance/annotations." [6]

On July 23, 1997, the cadastral court issued an Order granting the petition of respondent, [7] thus:

Since the Borromeo Bros. Estate did not oppose the previous petition for annotation of road right of way contained in the order of Judge Ignacio Debuque, this [c]ourt hereby grants the petition filed by Engr. Edgar John A. Garcia, the registered owner of TCT No. 142344 covering Lot 6-H-1 and directs the Register of Deeds of Cebu City to annotate on TCT No. RT-3972 the contents of the document ratified on August 18, 1938 recited in paragraph 4 of the instant petition after payment of the corresponding registration fees prescribed by law. Furnish the Borromeo Bros. Estate with a copy of this order as well as Atty. Loreto M. Durano, counsel for the petitioner.

On July 25, 1997, petitioner received a copy of the Order of July 23, 1997. Petitioner entered its special appearance and filed a "Motion for Reconsideration and Recall" and expressed "caution" that it was not necessarily submitting itself to the jurisdiction of the cadastral court. Petitioner contended that the Order of the Court dated July 23, 1997 violated its fundamental right to substantive and procedural due process, that the petition of respondent was for specific performance of a private agreement cognizable only by an ordinary court and not a cadastral court, and that the petition of respondent was a procedural shortcut to enforce a stale order citing Rule 39, Section 6 of the Rules of Court, the statute of limitations and prescription. [8]

On December 15, 1997, after both parties had submitted their respective arguments on the issues raised, the cadastral court denied petitioner's motion for reconsideration. The court held that firstly, there was no violation of substantial or procedural due process as the court furnished petitioner its Order of July 23, 1997, it heard petitioner's motion for reconsideration in open court, and allowed both parties to submit their respective memoranda including documentary exhibits prior to its ruling on the motion. Secondly, the promulgation of Presidential Decree No. 1529 or The Property Registration Decree of 1979 eliminated the distinction between the general jurisdiction of the RTC and its limited jurisdiction when acting as a Land Registration Court. Finally, the court ruled that the allegation of enforcement of a stale order contrary to Rule 39, Section 6 of the Rules of Court, the statute of limitations and prescription, was misplaced as the invoked rule applied only to civil actions and not to special proceedings such as a land registration case where neither laches nor the statute of limitations applies. [9]

Aggrieved, petitioner filed on December 29, 1997 a petition for certiorari before the Court of Appeals, docketed as CA-G.R. Sp. No. 47049. It alleged grave abuse of discretion on the part of the cadastral court for the issuance

of its Orders dated July 23, 1997 and December 15, 1997.

Meanwhile, respondent filed with the cadastral court a motion for execution of its July 23, 1997 Order,[10] which was opposed by petitioner[11] and denied by the cadastral court on April 6, 1998,[12] thus:

Should this [c]ourt enforce the questioned order now, any ruling by the Court of Appeals in the petition for certiorari if it is in favor of petitioner BBEI would create a situation wherein the ruling of a higher [c]ourt can no longer be implemented because the lower [c]ourt had chosen to enforce its order without waiting for the outcome of the petition for certiorari. This [c]ourt does not want to preempt the ruling of the Court of Appeals and therefore, this [c]ourt on the basis of the ruling of the Supreme Court aforementioned[13] and in the higher interest of justice will not enforce at this time the order dated July 23, 1997.

Respondent's April 29, 1998 motion for reconsideration[14] was denied. Thus, respondent filed before the Court of Appeals a petition for mandamus and certiorari, docketed as CA-G.R. Sp. No. 48512.

On November 18, 1998, the Court of Appeals consolidated the cases[15] and rendered its Consolidated Decision of June 21, 1999 dismissing the petition in CA-G.R. Sp. No. 47049 of herein petitioner and granting the petition in CA-G.R. Sp. No. 48512 of herein respondent.[16]

The Court of Appeals held that the evidence on record shows the existence of an easement of right of way in favor of respondent. But in dismissing the petition in CA-G.R. Sp. No. 47049, it anchored its decision on the fact that petitioner filed a special action for certiorari in which the appellate court is limited only to correcting errors of jurisdiction or grave abuse of discretion.

On the other hand, in granting the petition in CA-G.R. Sp. No. 48512, the Court of Appeals emphasized that since no restraining order or writ of injunction was issued in the other petition, the period on the finality of the Order of the cadastral court was never interrupted; and that the filing of a petition for certiorari does not prevent the decision from attaining finality as it is an independent action which does not interrupt the course of the principal action or the running of the reglementary period involved in the proceedings.

On July 9, 1999, petitioner filed its motion for reconsideration but the appellate court denied it in its Resolution of August 9, 1999.[17] Hence, this petition for review on certiorari under Rule 45 of the Rules of Court for the annulment and setting aside of the June 21, 1999 Consolidated Decision as well as the August 9, 1999 Resolution of the Court of Appeals.

Petitioner alleged these errors: (1) the appellate court erred in dismissing CA-G.R. Sp. No. 47049 and not reversing the July 23, 1997 Order of the cadastral court despite (a) the nullity of the Order for the denial of petitioner's substantive and procedural right to due process and (b) the commission of abuse of discretion and action without or in excess of jurisdiction of the cadastral court when it revived a stale order, and (2) it likewise erred in granting the petition in CA-G.R. Sp. No. 48512.

We find against petitioner.

At the outset, the Court emphasizes that the proper subjects of this Rule 45 Petition are the Consolidated Decision and Resolution of the Court of Appeals and not the Orders of the cadastral court.

The appellate court was correct in striking down the petition of petitioner in CA-G.R. Sp. No. 47049 on procedural grounds. Indeed, the filing of a special civil action for certiorari before the Court of Appeals limits the determination of the appellate court to whether there was an error of jurisdiction or grave abuse of discretion on the part of the cadastral court. A special civil action for certiorari is an independent action, raising the question of jurisdiction where the tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or

in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. The Court of Appeals found neither error of jurisdiction nor grave abuse of discretion, and dismissed the petition by stating that “[t]o Us and to say the most, aforementioned arguments are indeed typical only of either an error of procedure or an error of judgment.” This Court agrees.

Moreover, even assuming that the appellate court may correctly resolve error of procedure or error of judgment in the instant case, there was none committed by the cadastral court.

The cadastral court did not deny petitioner of its right to due process of the law. The essence of due process is found in the reasonable opportunity to be heard and submit any evidence in support of one’s defense. What the law proscribes is the lack of opportunity to be heard.[18] As long as a party is given the opportunity to defend his interests in due course, he would have no reason to complain, for it is this opportunity to be heard that makes up the essence of due process.[19]

The records reveal that the cadastral court furnished petitioner its Order of July 23, 1997, which reiterated its previous order of April 17, 1952 through former Judge Ignacio Debuque. More importantly, the cadastral court heard petitioner’s motion for reconsideration in open court wherein both parties presented their respective arguments to defend their rights and the court likewise allowed the parties to file their respective memoranda prior to ruling on the motion for reconsideration. To quote in part the court in its December 15, 1997 Order, viz:

x x x On August 8, 1997, the date set by Atty. Mercado for the hearing of his motion, the lawyers of both parties appeared including Atty. Amadeo D. Seno, Jr. and the court allowed the parties to argue on the merits of their respective contentions and later on directed the lawyers to put their additional arguments in writing together with additional documentary evidence and to cite the law, authorities and decisions of the Supreme Court in their respective contentions. BBEI (petitioner herein) filed its memorandum with annexes and documentary exhibits. x x x oppositor BBEI filed its reply.

Indeed, deprivation of the right to due process cannot be successfully invoked where a party was given the chance to be heard on his Motion for Reconsideration[20] as what happened in the instant case.

Moreover, the July 23, 1997 and December 15, 1997 Orders of the cadastral court were based on established facts on the existence of the grant of an easement of road right of way in favor of respondent, viz: (1) an Agreement, for a valuable consideration, dated August 15, 1936 executed by Patricia that granted a road right of way over Lot No. 6-H-2 and Lot No. 7 to the Garcia couple; (2) an Agreement, for a valuable consideration, dated August 17, 1938 executed by Patricia that granted a road right of way over Lot 6-H-2 to the Garcia couple; (3) Deed of Sale dated September 28, 1938 executed by Patricia in favor of Borrromeo Bros. Estate, Inc. that contained a provision: “x x x the purchase of Lot No. 6-H-2 was subject to the right of way granted by me (Patricia Ruedas Vda. de Andrada) to the spouses Gil Garcia and Teresa Escano de Garcia”; (4) the Official Receipt issued by the Register of Deeds of Cebu, Commonwealth of the Philippines No. B 2582295, dated August 18, 1938, upon registration shows the annotation on the title of the Agreement on the road right of way over Lot No. 6-H-2 in favor of the Garcia couple; and (5) the May 2, 1953 Letter of the Borrromeo Bros. Estate, Inc., through Flora D. Borrromeo, to Mr. Gil Garcia expressly and categorically recognizing or confirming the establishment of a road right of way over Lot No. 6-H-2 and Lot No. 7 in favor of the Garcia couple.

Clearly, whether the July 23, 1997 Order of the cadastral court is a revival of the June 28, 1952 Order of another cadastral court is immaterial as the latter was not the sole basis for the granting of the petition for annotation of the road right of way. It merely bolstered the petition of respondent to annotate the road right of way in his favor.

In fine, the records of the instant case show that (1) there was substantial evidence to support the annotation of the easement of right of way on the title of petitioner in favor of respondent and (2) the requirements of due process

were sufficiently met. No abuse of discretion was committed by the cadastral court. Consequently, the Court of Appeals is justified in dismissing the petition in CA-G.R. Sp. No. 47049.

Likewise, there being no more obstacles in the immediate execution of the Order requiring the annotation of the easement of road right of way on the title of the property of petitioner in favor of respondent, the Court affirms the Court of Appeals in granting the petition in CA-G.R. Sp. No. 48512.

IN VIEW WHEREOF, the petition is DENIED. The Consolidated Decision and Resolution of the Court of Appeals dated June 21, 1999 and August 9, 1999, respectively, in CA-G.R. Sp. No. 47049 and CA-G.R. Sp. No. 48512 are AFFIRMED.

SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Penned by Associate Justice Bernardo LL. Salas and concurred in by Associate Justices Cancio C. Garcia and Candido V. Rivera, June 21, 1999; rollo, pp. 293-315.

[2] Penned by Associate Justice Alicia Austria-Martinez and concurred in by Associate Justices Salvador J. Valdez, Jr. and Renato C. Dacudao, August 9, 1999; *id.*, p. 275.

[3] Dated July 23, 1997 and December 15, 1997.

[4] Notarized by Cresencio Tomakin, Notarial Document No. 722, Page No. 68, Book IX and Series of 1938.

[5] Rollo, p. 71.

[6] *Id.* at 72-73.

[7] *Id.* at 74.

[8] *Id.* at 75-79.

[9] *Id.* at 81-88.

[10] *Id.* at 251-256.

[11] *Id.* at 257-259.

[12] *Id.* at 260-261.

[13] Citing *Cruz v. Leabres*, G.R. No. 99846, May 22, 1995, 244 SCRA 194, *id.* at 260.

[14] *Id.* at 262-274.

[15] *Supra* note 2.

[16] *Supra* note 1.

[17] Rollo, p. 57.

[18] *Estares v. Court of Appeals*, G.R. No. 144755, June 8, 2005, 459 SCRA 604, citing *Anama v. Court of Appeals*, G.R. No. 128609, January 29, 2004, 421 SCRA 338, 351; *Philippine Commercial International Bank v. Court of Appeals*, 454 Phil. 338 (2003); and *Kuizon v. Desierto*, G.R. Nos. 140619-24, March 9, 2001, 354 SCRA 158, 176.

[19] Ibid., citing *Anama v. Court of Appeals*, *supra*; and *Philhouse Development Corporation v. Consolidated Orix Leasing and Finance Corporation*, G.R. No. 135287, April 4, 2001, 356 SCRA 281, 286.

[20] *Salonga v. CA*, 336 Phil. 514 (1997); and *Paat v. CA*, 334 Phil. 146 (1997).

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