

[CV No. 64772, August 17, 2010]

**JENIA LAND VENTURES, PETITIONER-APPELLEE, VS. REGISTER
OF DEEDS OF BAGUIO CITY, DEFENDANT, REPUBLIC OF THE
PHILIPPINES, OPPOSITOR-APPELLANT.**

Court of Appeals

This is an appeal from the Order dated February 24, 1999 of the Regional Trial Court (RTC) of Baguio City, Branch 59, the dispositive portions of which states:

"Finding the petition to be well-taken, the same is granted.

WHEREFORE, premises considered, the Register of Deeds for the City of Baguio is hereby directed to cancel, upon payment of the prescribed fees therefor, the aforementioned encumbrances annotated on Transfer Certificate of Title No. T-68562 of her Registry.

SO ORDERED."^[1]

The Facts

Appellee Jenia Land Ventures Inc. is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. T-68562 in the Registry of Deeds of Baguio City, with an area of 617 square meters.^[2] Appellee filed a petition in the court *a quo* for the cancellation of the following annotations/encumbrances in the title:

- "1. That the tract shall not be subdivided, nor shall more than one residence be erected thereon, without the written approval of the Secretary of the Interior of the Philippine Islands.
2. That the said tract shall not be used for any purpose other than that of residence without the written approval of the Secretary of the Interior of the Philippine Islands.
3. That no building shall be erected upon said tract until the plan thereof and the location of the building have been approved in writing by the Consulting Architect to the Philippine Commission."^[3]

The petition alleged that "the said annotations/encumbrances have been terminated by the enactment of new provisions of laws which need not appear in the aforesaid certificate of title."^[4] It added that "such annotations/encumbrance in the certificate of title are by law not required to appear in the certificate of title and therefore may be cancelled in conformity with Sec. 108 in relation to Sec. 44 of P.D. No. 1529."^[5]

The RTC gave due course to the petition and set the case for hearing, with notice to the following: the Office of the Solicitor General, the Land Registration Authority, the Office of the City Prosecutor, the Register of Deeds and the petitioner.^[6]

As cited by the court in its order which is now the subject of the instant appeal, appellee also claimed that:

"1. As to encumbrance no. 1, it may be cancelled since it is now P.D. No. 1529 that governs the subdivision and consolidation of parcels of land. The office of the Secretary of the Interior of the Philippine Islands also no longer exists.

2. As to encumbrance no. 2, it may be cancelled since the present law governing all buildings and structures, as well as their location, site design, materials, use, occupancy and maintenance is P.D. No. 1096. Again, the office of the Secretary of the Interior of the Philippine Islands also no longer exists. The building official of each city or municipality has taken over these functions of the Secretary.

3. As to encumbrance no. 3, it may also be cancelled since the office of the Consulting Architect of the Philippine Commission no longer exists; its functions are now being performed by the local building official."^[7]

Without much extrapolation, the court noted its agreement with all of appellee's and issued the appealed order.

Aggrieved by the order, the Republic of the Philippines, through the Office of the Solicitor General, filed a Motion for Reconsideration dated March 12, 1999, which was denied by the court on May 10, 1999.

The Republic filed the instant appeal, arguing that the annotations/encumbrances should remain. In its brief, appellant maintains that the transfer of functions from the Secretary of the Interior (of the Philippine Islands) and the Consulting Architect (of the Philippine Commission) to the municipal or city building official did not obliterate the requirement for a written approval of such official before the acts described in the encumbrances may be performed.^[8] Thus, the abolition of the offices of Secretary of the Interior of the Philippine Islands and the Consulting Architect of the Philippine Commission alone should not result in the cancellation of the encumbrances, especially since no law or jurisprudence authorizes such.^[9]

Further, the government argues that appellee failed to notify the Secretary of the Interior (now the Secretary of the Interior and Local Government) and the Consulting Architect (now the municipal or city building official) who are parties-in-interest to the cancellation, as mandated by Section 108 of P.D. No. 1529.^[10] Appellant argues that this omission is fatal to the petition and should have resulted in its dismissal.^[11]

Appellee, in its brief, responds by stating that under Section 108 of P.D. No. 1529, when the registered interests of any description appearing in the certificate have terminated and ceased to exist, such certificate may be amended or altered via a verified petition in court.^[12] It is also the appellee's position that under Section 44

of the law, liens, claims or rights arising or existing under the laws and the Constitution need not be annotated in the title.^[13]

As to the allegation that there was a failure to notify the building official or the Secretary of the Interior and Local Government, appellee maintains that "notice to the Solicitor General is sufficient notice since said departments are alter egos of the President and the Office of the Solicitor General is Counsel of the Office of the President and its department heads."

The issue

For our resolution is the sole issue of ***whether or not the annotations/ encumbrances in the appellee's title may be cancelled.***

The Court's Ruling

We find the appeal impressed with merit. It was error for the trial court to grant appellee's prayer cancelling the annotations/ encumbrances in the latter's title.

First, it was error for the trial court to rule that the abolition of the offices of Secretary of the Interior of the Philippine Islands and the Consulting Architect of the Philippine Commission should necessarily result in the cancellation of the encumbrances.

There is a need to separate the public officials mentioned in the encumbrances, and the encumbrances or impositions on the property themselves. Though the public office concerned may have been abolished or replaced by another, it is highly likely that the encumbrance itself and the conditions which gave rise to it remains. The encumbrance does not necessarily disappear with the dissolution of a public office charged to regulate the property, because of the high probability that the public interest being served by the restrictions remain.

In the present case, the restrictions that the land remain a residential land or that it not be subdivided, unless permitted by the proper authority, or that its buildings be pre-approved by certain officials, exist independently of which public officials are charged with their enforcement. They are impositions on the land itself. Although none of the parties allege the reasons behind these restrictions, it may be judicially taken notice of that they could be in keeping with Baguio City's character as a tourist destination and designation as the country's summer capital.

An encumbrance has been defined as "anything that impairs the use or transfer of property; anything which constitutes a burden on the title; a burden or charge upon property; a claim or lien upon property."^[14] It may be a "legal claim on an estate for the discharge of which the estate is liable; an embarrassment of the estate or property so that it cannot be disposed of without being subject to it; an estate, interest, or right in lands, diminishing their value to the general owner; a liability resting upon an estate."^[15]

Being such a burden/claim/lien/charge on the property, the existence or non-existence of an encumbrance could not be made to depend on whatever realignments, restructuring, or reorganizations happen in the bureaucracy,