

SECOND DIVISION

[G.R. NO. 144099, September 26, 2005]

**ELVIRA MACABALO-BRAVO AND ROLANDO T. MACABALO,
PETITIONERS, VS. JUAN F. MACABALO AND THE REGISTER OF
DEEDS OF KALOOKAN CITY, RESPONDENTS.**

DECISION

AUSTRIA-MARTINEZ, J.

This resolves the petition for review on *certiorari* seeking the reversal of the Decision^[1] of the Court of Appeals (CA) promulgated on June 6, 2000 which reversed the Decision of the Regional Trial Court (RTC) of Kalookan City, Branch 125, in LRC Case No. C-3774; and the CA Resolution dated July 21, 2000 denying petitioners' motion for reconsideration.

The antecedent facts are as follows:

Petitioner Elvira Macabalo-Bravo (Elvira) filed a petition for issuance of second owner's copy of Transfer Certificate of Title (T.C.T.) No. 232003 with the RTC of Kalookan City, alleging that Reynaldo dela Cruz (dela Cruz), the registered owner of the lot covered by said title, mortgaged subject lot to her; that the owner's copy of said title was surrendered to her; and that subsequently, Elvira discovered that said title was missing from her files and all efforts to locate the same proved futile.

On December 13, 1996, the RTC granted the petition and ordered the issuance to Elvira of a new owner's duplicate copy of T.C.T. No. 232003 in lieu of the lost one and declared said T.C.T. No. 232003 null and void.

Private respondent Juan Macabalo (Juan), the father of Elvira, then filed a petition for annulment of judgment with the CA. The petition was subsequently amended to include his son, herein petitioner Rolando Macabalo (Rolando), as respondent therein. In said petition, Juan alleged that: he was the registered owner of a parcel of land in Kalookan City with an area of 1,250 square meters covered by T.C.T. No. 56408; he obtained loans from spouses Maximiano and Restituta dela Cruz and in a compromise agreement, he agreed to convey a 200-square meter portion of said parcel of land to the dela Cruz spouses as payment for his debts; thus, T.C.T. No. 56408 was cancelled and in its stead were issued T.C.T. No. 232003 in the name of dela Cruz, the son of the dela Cruz spouses, covering the 200-square meter portion, and T.C.T. No. 232004 in the name of Juan covering the remaining 1,050 square meters; subsequently, dela Cruz mortgaged the subject lot covered by T.C.T. No. 232003 to one Estanislao Legazpi (Legazpi); Juan then entered into an agreement with dela Cruz whereby Juan would be the one to redeem subject lot from Legazpi; as a result, Juan was substituted as the mortgagee over the subject lot, but he instructed dela Cruz to put the name of herein petitioner Elvira, his then favorite child, as mortgagee in the deed of mortgage; however, as a measure of protection

for himself, he kept the Owner's Duplicate Copy of T.C.T. No. 232003 surrendered to him by Legazpi and dela Cruz; but, to his consternation, he later discovered that Elvira had filed a petition for issuance of a second owner's copy of T.C.T. No. 232003 and that the RTC has granted said petition; Juan claims that the RTC had no jurisdiction to issue the Order of December 13, 1996 granting the petition because T.C.T. No. 232003 was in reality not lost but was actually in his possession; thereafter, subject lot was divided into two between herein petitioners Elvira and Rolando, resulting in the issuance of T.C.T. Nos. 322765 and 322766 in the names of petitioners Elvira and Rolando, respectively.

Herein petitioners Elvira and her brother Rolando filed their Answer wherein they countered that: T.C.T. No. 56408 was actually in the name of Rolando but through dubious circumstances, their father, Juan, was able to have said title cancelled and title to the property transferred to him; consequently, Rolando filed a complaint for annulment of deed of sale, cancellation of title and damages against Juan; they (Elvira and Rolando) admit the conveyance to the dela Cruz spouses of the subject lot, the issuance of T.C.T. No. 232003 in the name of dela Cruz, and the fact that the latter then mortgaged said property to Legazpi; contrary to the allegations of Juan, it was they who transacted with dela Cruz to allow them to be the ones to redeem the property from Legazpi and for Elvira to be substituted as mortgagee over subject lot; they redeemed the subject lot from Legazpi with their own money; after redeeming the subject lot, T.C.T. No. 232003 came into the possession of Elvira who kept it with her files in a cabinet drawer; later, she realized that the title was already missing from the cabinet drawer; she believed in good faith that T.C.T. No. 232003 had been lost and it was only when Juan filed the petition for annulment of judgment that she learned that said title was in the possession of Juan who must have surreptitiously taken the title from her files. Elvira and Rolando claim that the RTC had jurisdiction to issue the Order dated December 13, 1996 because when she filed the petition for issuance of owner's copy of T.C.T. No. 232003, no one opposed or contested said petition.

The CA then set the case for pre-trial conference on January 12, 1999 wherein the parties agreed to present their evidence before the Division Clerk of Court.^[2] On February 1 or 18, 1999,^[3] the parties appeared before the Clerk of Court and herein private respondent Juan (as petitioner in the CA) presented the testimonies of witnesses dela Cruz and Legazpi and marked as exhibits several documents, *i.e.*, the sworn statements of dela Cruz and Legazpi, the certified true copy of the Deed of Absolute Sale between Juan and dela Cruz, a copy of the Real Estate Mortgage between dela Cruz and Legazpi, the certified Xerox copy of the Release of Real Estate Mortgage dated March 24, 1993, the Deed of Mortgage between dela Cruz and Elvira dated March 24, 1993, the Cancellation of the Real Estate Mortgage between Rolando and Elvira dated November 16, 1994, the Deed of Absolute Sale between dela Cruz and Elvira dated October 13, 1997, and **the Owner's Duplicate Original of Transfer of Certificate of Title No. 232003 of the Registry of Deeds for the City of Kalookan.** Dela Cruz identified his affidavit dated May 22, 1998, which was adopted as his direct testimony. Witness Legazpi stated that Juan told him that the subject property was very important to him, thus, the latter offered to buy back said property; that later, he agreed to sell back the property to Juan for P200,000.00 and the latter immediately paid said amount.

On the other hand, herein petitioners (as respondents in the CA) only marked as

exhibits several documents consisting of the *Sinumpaang Salaysay* of Rosita dela Cruz and Gabriel dela Cruz dated October 15, 1998, the Deed of Absolute Sale executed by Juan in favor of Elvira dated August 3, 1990, the Deed of Mortgage by dela Cruz in favor of Elvira dated March 24, 1993, Deed of Sale with cancellation of mortgage by and between dela Cruz and Elvira dated September 28, 1996, Deed of Absolute Sale between dela Cruz and Elvira dated October 13, 1997, T.C.T. No. 322765, T.C.T. No. 322766, and the Affidavit of Legazpi dated May 21, 1998.^[4] Petitioners adopted as a common exhibit **the Owner's Duplicate Original of T.C.T. No. 232003** "except the last and fourth pages with annotations which are in issue in this case." ^[5]

Several other hearing dates were set, but the records do not show if those hearings proceeded. However, on October 1, 1999, the CA promulgated a Resolution, to wit:

In the pre-trial conference scheduled on September 29, 1999, the parties who were both present and represented by their respective counsel agreed to submit within forty-five (45) days their respective memorandum (sic) together with pertinent affidavits in support of their positions in this case. ^[6]

Both parties eventually submitted the required memoranda.

Thereafter, the CA issued a Resolution dated March 14, 2000 considering the case submitted for decision.^[7] On June 6, 2000, the CA promulgated its Decision,^[8] the dispositive portion of which reads as follows:

WHEREFORE, the challenged order is hereby **VACATED AND SET ASIDE**. The Register of Deeds of Kalookan City is directed to **ANNUL** the Transfer Certificate of Title issued to private respondent Elvira M. Bravo pursuant to the aforementioned order. Corollarily, the TCT Nos. 322765 and 322766 registered in the name of Elvira M. Macabalo and Rolando T. Macabalo, respectively, are **CANCELLED**.

Costs against private respondents.

SO ORDERED.

The CA ruled that the RTC had no jurisdiction to order the issuance of a duplicate copy of T.C.T. No. 232003 because the certificate of title had not been lost but was merely in the possession of another person. As to the issue of whether private respondent Juan is the real party-in-interest, the CA ruled in the affirmative, stating that "given petitioner's (herein private respondent Juan) claim of ownership over the land by virtue of an implied trust, he is properly within the ambit of the definition of a real party in interest."

Herein petitioners moved for reconsideration of the CA Decision but the same was denied per CA Resolution dated July 21, 2000.

Hence, the present petition for review on *certiorari* where petitioners assign the following as errors of the CA:

1. The Court of Appeals committed grave abuse in the exercise of its discretion amounting to lack of jurisdiction in holding that the Regional Trial Court, Branch 125 of Caloocan City has no jurisdiction to issue the Order dated December 13, 1996.
2. The Court of Appeals committed abuse of its discretion when it held that Juan Macabalo is in actual possession of the subject property notwithstanding evidence to the contrary.
3. The Court of Appeals committed grave abuse in the exercise of its discretion amounting to lack of jurisdiction when it held that there was trust created between Juan Macabalo and Elvira Macabalo-Bravo notwithstanding the absence of concrete evidence proving the same.
4. The Court of Appeals committed grave abuse of its discretion amounting to lack of jurisdiction when it held that private respondent Juan is the real party-in-interest.
5. The Court of Appeals likewise gravely abused its discretion amounting to lack of jurisdiction when herein petitioners, respondents then, and their witnesses were not given equal opportunity to testify before the court notwithstanding their presence during the hearing, thereby violating petitioners' right to due process of law.
6. The Court of Appeals likewise abused its discretion amounting to lack of jurisdiction when it concluded that there was fraud in securing the signature of Reynaldo dela Cruz on the basis of a mere supplemental affidavit.
7. The remedy of Juan is to file civil case for reconveyance. ^[9]

In order to put the issues in their proper perspective, it is necessary to emphasize at the outset that in a petition for issuance of second owner's duplicate copy of certificate of title in replacement of a lost one, the only issues to be resolved are: whether or not the original owner's duplicate copy had indeed been lost and whether the petitioner seeking the issuance of a new owner's duplicate title is the registered owner or other person in interest.^[10] The ownership of the property is not in issue. Thus, in *Rexlon Realty Group, Inc. vs. Court of Appeals*,^[11] the Court emphasized that:

. . . In a petition for the issuance of a new owner's duplicate copy of a certificate of title in lieu of one allegedly lost, the RTC, acting only as a land registration court, has no jurisdiction to pass upon the question of actual ownership of the land covered by the lost owner's duplicate copy of the certificate of title. Possession of a lost owner's duplicate copy of a certificate of title is not necessarily equivalent to ownership of the land covered by it. The certificate of title, by itself, does not vest ownership; it is merely an evidence of title over a particular property.^[12]

More recently, in *Heirs Of Susana De Guzman Tuazon vs. Court of Appeals*,^[13] the Court further expounded thus:

. . . Regardless of whether petitioners' cause of action in LRC Case No. 93-1310 is based on Section 109 of P.D. No. 1529 [involving the issuance, in lieu of the lost one, of the owner's copy] or under Rep. Act No. 26 [involving cases where the original copy of the certificate of title with the Register of Deeds which is lost or destroyed], the same has no bearing on the petitioners' cause in this case. Precisely, in both species of reconstitution under Section 109 of P.D. No. 1529 and R.A. No. 26, the nature of the action denotes a restoration of the instrument which is supposed to have been lost or destroyed in its original form and condition. **The purpose of the action is merely to have the same reproduced, after proper proceedings, in the same form they were when the loss or destruction occurred, and does not pass upon the ownership of the land covered by the lost or destroyed title.** It bears stressing at this point that ownership should not be confused with a certificate of title. Registering land under the Torrens System does not create or vest title because registration is not a mode of acquiring ownership. A certificate of title is merely an evidence of ownership or title over the particular property described therein. **Corollarily, any question involving the issue of ownership must be threshed out in a separate suit . . . The trial court will then conduct a full-blown trial wherein the parties will present their respective evidence on the issue of ownership of the subject properties to enable the court to resolve the said issue.**^[14] (Emphasis supplied).

Hence, the CA should have limited itself only to the determination of whether the trial court had jurisdiction over the petition for issuance of a new owner's duplicate copy of a certificate of title in lieu of the one allegedly lost. The only fact that had to be established in this case is whether or not the original owner's duplicate copy of a certificate of title is still in existence as it has been held by this Court that if an owner's duplicate copy of a certificate of title has not been lost but is in fact in the possession of another person, the reconstituted title is void and the court rendering the decision has not acquired jurisdiction.^[15]

Thus, the CA exceeded its jurisdiction when it ruled that "petitioner's [Juan's] claim that he owned the subject property is bolstered by both documentary and testimonial evidence" while "private respondents' [Elvira and Rolando's] claim of ownership over the subject parcel of land remains spurious and questionable." These issues should be ventilated and threshed out in a proper suit in the proper forum, not in a petition for annulment of the RTC judgment that granted the petition for issuance of a second owner's copy of T.C.T. in lieu of the lost one.

Consequently, the subject matter of the errors assigned by petitioners, to wit:

2. The Court of Appeals committed abuse of discretion when it held that Juan Macabalo is in actual possession of the subject property notwithstanding evidence to the contrary.