

## SECOND DIVISION

[ G.R. NO. 162846, September 22, 2005 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. JOSE LUBIS MASONGSONG AND JUANITO LUBIS MASONGSONG, RESPONDENTS.**

### DECISION

**CALLEJO, SR., J.:**

This is a petition for review on *certiorari* of the Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 75826 which affirmed the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Lipa City, Branch 12, granting the petition in LRC Case No. 2001-0677.

#### The Antecedents

On December 28, 2001, Jose Lubis Masongsong and his brother, Juanito Lubis Masongsong, filed a petition in the RTC of Lipa City, for the declaration of nullity of Decree No. 639024 purportedly issued in favor of Serapio<sup>[3]</sup> Lubis on June 21, 1937 in LRC Cadastral Record No. 1296, and that the Administrator of the Land Registration Authority (LRA) be ordered to issue a new decree in favor of the petitioners.

The petitioners alleged that Serapio Lubis was the owner of a parcel of land located in *Barangay Calingatan, Mataasnakahoy*, Batangas. A cadastral survey was later conducted in Lipa and *Mataasnakahoy*, Batangas, Cad. 218 Lipa Cadastre, where the property of Serapio Lubis, with an area of 6,146.85 square meters, was identified as Lot No. 8500. The lot was the subject of Cadastral Case No. 24, LRC Cad. Record No. 1296, and after due proceedings, a decision directing the issuance of a decree over the lot was rendered in favor of Serapio Lubis. Conformably, Decree No. 639024 was issued on June 21, 1937. Serapio Lubis died intestate on December 12, 1940, and was survived by his two daughters, Angela Lubis Masongsong and Gregoria Lubis-Dimaculangan. The latter died on April 26, 1977, survived by her heirs Corazon Dimaculangan Vda. de Bariuan and Milagros Dimaculangan-Lescano; Angela Lubis Masongsong, likewise, died intestate on October 29, 1989, survived by her children, namely, Alberto, Nicanor, Jose and Juanito, all surnamed Masongsong, and Arsenia Masongsong-Reyes and Lourdes Masongsong-Aranda. Thereafter, the heirs of Angela Masongsong and Gregoria Dimaculangan agreed to adjudicate the aforesaid lot unto themselves, and caused the property to be re-surveyed. The plan<sup>[4]</sup> was prepared by Geodetic Engineer Gregorio T. Pesigan on August 15, 1998. The petitioners then discovered that the Bureau of Lands had no existing or salvaged records of Decree No. 639024. Thus, on December 31, 1999, the heirs of Angela Masongsong and Gregoria Dimaculangan executed a deed entitled "*Pagbabahaging Labas sa Hukuman na May Bilihang Ganap O Lubusan*"<sup>[5]</sup> over the

property. The property had been declared for taxation purposes, the latest of which was in 1993, under Tax Declaration No. 008-00006 in the name of Serapio Lubis.<sup>[6]</sup>

The petitioners also indicated the names and addresses of the adjoining lot owners as "Placida and Baldomero Lubis, Marlene Nuestro and Salud Liac, c/o Gregorio Landicho, at *Barangay Calingatan, Mataasnakahoy, Batangas*." They averred that, to the best of their knowledge, the property had not been mortgaged nor encumbered, and that no other person had any interest thereon. They asserted that despite earnest efforts, Decree No. 639024 could no longer be located, and is as such presumed to have been lost or destroyed during World War II.<sup>[7]</sup>

The following were appended to the petition: the Deed of Extrajudicial Settlement of the Estate of Serapio Lubis, Angela Masongsong and Gregoria Dimaculangan executed by the petitioners and the heirs of Angela Masongsong and Gregoria Lubis-Dimaculangan on December 31, 1999; and a Certification dated July 13, 2000 issued by the LRA stating that Decree No. 639024 issued on June 21, 1937 covering Lot No. 8500 of the Cadastral Survey of Lipa and *Mataasnakahoy, Batangas* under Cad. Case No. 24, LRC Cadastral Record No. 1296 is not among its salvaged records.

On January 4, 2002, the trial court issued an Order<sup>[8]</sup> giving due course to the petition and setting the hearing at 8:30 a.m. of February 4, 2002, where all persons interested could appear and show cause why the petition should not be granted. The court also directed that copies of the petition and its annexes and the aforesaid order be served on the Register of Deeds of Batangas, and the City Prosecutor of Lipa City, and that it be posted in at least three (3) conspicuous places, namely, at the Lipa City public market, Lipa City Hall and at *Barangay Calingatan, Mataasnakahoy, Batangas*.

The Office of the Solicitor General (OSG) did not file any written opposition to the petition.

During the hearing of the petition, petitioner Juanito Lubis Masongsong testified and declared that petitioner Jose Masongsong had taken possession and cultivated the property since 1970.<sup>[9]</sup> He also stated that the heirs of Serapio Lubis, Angela Masongsong and Gregoria Dimaculangan had settled and adjudicated the estate of the deceased unto themselves on December 31, 1999.<sup>[10]</sup>

The petitioners adduced in evidence a technical description of the property duly certified and found correct by the Regional Technical Director of the Bureau of Lands on August 13, 1998;<sup>[11]</sup> tax declarations covering the property in the name of Serapio Lubis, from 1968 to 1994;<sup>[12]</sup> a Certification from the LRA dated May 29, 1998, stating that after due verification of the record book of cadastral lots in its custody, it was found that Decree No. 639024 was issued on June 21, 1937 covering Lot No. 8500 of the Cadastral Survey of Lipa and *Mataasnakahoy, Batangas*, based on a decision in Cad. Case No. 24, LRC Cad. Record No. 1296;<sup>[13]</sup> a Certification by the Register of Deeds of Batangas stating that there was no existing or salvaged record of the certificate of title covering Lot No. 8500 of the Lipa City Cadastre covered by Decree No. 639024, Cad. Case No. 24, LRC Cad. Record No. 1296 in the name of Serapio Lubis;<sup>[14]</sup> and a certification from the Department of Environment

and Natural Resources (DENR) Region IV, that per its records, Lot No. 8500 located in *Barangay Calingatan, Mataasnakahoy, Batangas*, is not covered by any kind of public land application or patent;<sup>[15]</sup> and a certified true copy of page 88, Cadastral Decree Book, Cadastral Decree Section, LRC, showing that Decree No. 639024 covering Lot No. 8500 based on the decision, Cadastral Case No. 79-1 was issued on June 21, 1937.<sup>[16]</sup>

The OSG did not adduce any evidence against the petition.

On May 29, 2002, the trial court rendered a Decision<sup>[17]</sup> granting the petition. The *fallo* of the decision reads:

WHEREFORE, the petition is GRANTED. The lost text of Decree No. 639024 issued on June 21, 1937 in the name of Serapio Lubis is cancelled and the Administrator of the Land Registration Authority, upon payment of the prescribed fees due thereon, is hereby ordered to issue a new decree in lieu thereof which shall bear a memorandum that it was issued in lieu of the lost or destroyed decree, but shall in all respect be entitled to like faith and credit as the original decree. Also, the Register of Deeds for the Province of Batangas, Batangas City is hereby ordered to cause the registration of the same in the name of Serapio Lubis.

SO ORDERED.<sup>[18]</sup>

The OSG appealed the decision to the CA, alleging that the trial court erred in granting the petition for the issuance of a new decree, since the petitioners failed to adduce in evidence a copy of the decree purportedly issued in the name of Serapio Lubis, or at least a certified copy of the decision of the court granting the decree. It further alleged that there was no showing in the RTC that the owners of the adjoining lots, namely, Placida Lubis, Baldomero Lubis, Marlene Nuesto and Salud Liac, all of *Barangay Calingatan, Mataasnakahoy, Batangas*, were served with copies of the petition, the order of the court setting the case for hearing and the notice of hearing issued by the court.

On March 15, 2004, the CA rendered judgment affirming the decision of the RTC and dismissing the appeal of the OSG.<sup>[19]</sup>

In due course, the Republic of the Philippines, through the OSG, filed a petition for review of the decision, alleging that:

#### I

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN HOLDING THAT THE FAILURE TO PRODUCE IN EVIDENCE THE ASSAILED DECREE OR AT LEAST THE DECISION RELEVANT THERETO, WAS ADEQUATELY EXPLAINED BY RESPONDENTS, AS WELL AS IN GIVING WEIGHT TO THE CERTIFICATIONS OF THE GOVERNMENT AGENCIES CONCERNED, NAMELY, THE LRA AND THE REGISTER OF DEEDS, TO THE EFFECT THAT THE SUBJECT DECREE WAS PRESUMABLY LOST OR DESTROYED.

#### II

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN HOLDING THAT THE ADJOINING LOT OWNERS AND RESPONDENTS' CO-OWNERS

NEED NOT BE NOTIFIED OF THE PROCEEDINGS IN THE COURT A QUO.

[20]

On the first ground, the OSG avers that the respondents failed to prove that Decree No. 639024 in favor of Serapio Lubis ever existed; it behooved the respondents, as petitioners in the RTC, to adduce as evidence the decree of the court in Cadastral Case No. 24, LRC Cad. Record No. 1296, or in the absence thereof, any credible explanation why they failed to present such decree; and there is no competent and credible evidence that such decree had been lost or destroyed during the Second World War. Moreover, while the Republic of the Philippines, through the OSG, failed to adduce evidence in opposition to the petition, the respondents, as petitioners in the RTC, were burdened to prove the allegations of their petition and should have relied on the strength of their evidence.

The assailed ruling of the CA reads:

In [view] of the facts and circumstances in this case reveals that appellee could not have possibly produced Decree No. 639024 issued by the government in favor of Serapio pursuant to a decision rendered by the court relative thereto, for the simple reason that the same was lost or destroyed due to the devastation of the second World War. Contrary to appellant's claim, the failure to produce the assailed decree or decision relevant thereto was well-explained by the appellee. As a matter of fact, they presented the certifications of the proper government agency to assert that the decree was lost or destroyed. As certified by Alberto Lingayo, Acting Chief of the Ordinary and Cadastral Decree Division of the LRA, a decree was issued for the subject lot pursuant to a court decision thereon. Although Salvador Oriel, the Chief of the Docket Division of the said office attested that there is no salvaged decree on file involving the disputed lot, he stated that the decree was presumed to have been lost or destroyed as a consequence of the World War. Also, the non-existence of a copy of the decree in the files of the LRA or the Register of Deeds does not imply that a decree had never been issued or recorded. Thus, the trial court did not err in giving weight to these certifications and in granting the petition on the basis thereof. In the issuance of these certifications, it is presumed, in the absence of contradictory evidence, that an official duty has been regularly performed. Since the decree in the name of appellee's predecessor was issued on June 21, 1937, the court decision granting the same could have, likewise, been issued around the same time. As such, it can also be presumed that the decision was lost or destroyed due to the war. Besides, it is too late in the day to ask for such decision, when the appellant – oppositor in the instant petition, could have asked the same during the trial at the court below. With the loss or destruction of these documents, this Court is, likewise, bent on relying on the certifications issued by the LRA. [21]

The contention of the petitioner is correct.

The respondents, as the petitioners in the RTC, were burdened to prove the following: that the court had rendered the decision in LRC Case No. 24, LRC Cad. Record No. 1296 covering Lot 8500 in favor of Serapio Lubis, and that as such,