

## SECOND DIVISION

[ G.R. No. 199501, March 06, 2013 ]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE  
REGIONAL EXECUTIVE DIRECTOR, DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES, REGION III,  
PETITIONER, VS. HEIRS OF ENRIQUE ORIBELLO, JR. AND THE  
REGISTER OF DEEDS OF OLONGAPO CITY, RESPONDENTS.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This petition for review<sup>[1]</sup> assails the 29 April 2011 Decision<sup>[2]</sup> and 16 November 2011 Resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. CV No. 90559. The Court of Appeals denied petitioner Republic of the Philippines' (petitioner) appeal of the Order of the Regional Trial Court, Olongapo City, Branch 72,<sup>[4]</sup> which dismissed petitioner's action for reversion and cancellation of Original Certificate of Title (OCT) No. P-5004 in the name of Enrique Oribello, Jr. (Oribello).

#### The Facts

The present controversy involves a parcel of land situated in Nagbaculao, Kalaklan, Olongapo City, which was once classified as forest land by the Bureau of Forest Development. The property was originally occupied by a certain Valentin Fernandez (Valentin) in 1968 by virtue of a Residential Permit issued by the same government office.

Upon Valentin's death, his son, Odillon Fernandez (Odillon), continued to occupy the property, together with spouses Ruperto and Matilde Apog. Sometime in 1969, Odillon sold the property to a certain Mrs. Florentina Balcita who, later on, sold the same property to Oribello. Oribello filed a Miscellaneous Sales Application with the Department of Environment and Natural Resources (DENR), which denied the application since the land remained forest land.

On 20 February 1987, the subject property was declared open to disposition under the Public Land Act. Thus, Oribello filed another Miscellaneous Sales Application on 6 April 1987.

On 27 March 1990, the Director of Lands issued an Order for the issuance of a patent in favor of Oribello. On even date, Miscellaneous Sales Patent No. 12756 and OCT No. P-5004 were issued to Oribello.

Matilde Apog (Apog) and Aliseo San Juan (San Juan),<sup>[5]</sup> claiming to be actual occupants of the property, protested with the DENR the issuance of the sales patent

and OCT in favor of Oribello. They sought the annulment of the sales patent, arguing that Oribello and Land Inspector Dominador Laxa (Laxa) committed fraud and misrepresentation in the approval of the Miscellaneous Sales Application of Oribello. They alleged that Laxa submitted a false report to the Director of Lands, by stating that there were no other claimants to the property and that Oribello was the actual occupant thereof, when the contrary was true.

After investigation, the Regional Executive Director of the DENR found substantial evidence that fraud and misrepresentation were committed in the issuance of the sales patent in favor of Oribello, warranting a reversion suit.

On 25 March 1992, the Office of the Solicitor General, representing petitioner, instituted a complaint for reversion and cancellation of title before the Regional Trial Court of Olongapo City, docketed as Civil Case No. 225-0-92. The case was thereafter consolidated with Civil Case No. 233-0-91, a complaint for recovery of possession filed by Oribello against Apog and San Juan.

During the trial, petitioner marked numerous documentary evidence and presented several witnesses on various hearing dates.<sup>[6]</sup>

In an Order dated 20 December 1996, the trial court warned petitioner on the possible effect of its non-appearance on the next scheduled hearing, thus:

WHEREFORE, let the continuation of the reception of evidence for the Republic of the Philippines be reset to February 14, 21 and 28, 1997, all at 10:00 o'clock in the morning, as previously scheduled.

**The Solicitor General is warned that should his designated lawyer or any of his assistants fail to appear on the dates above-stated, the Court will be constrained to consider the presentation of evidence for the Republic of the Philippines as terminated.**

Atty. Dumpit, therefore, is advised that he bring his witnesses on said dates to testify for the defendants Matilde Apog and Eliseo San Juan should the Solicitor General fail to appear and present evidence.

x x x x

SO ORDERED.<sup>[7]</sup> (Emphasis supplied)

On the hearing of 4 April 1997, Atty. Oscar Pascua, representing petitioner, presented a witness on the stand.

For petitioner's failure to appear on the hearing of 12 September 1997, the trial court issued an Order<sup>[8]</sup> on even date holding as follows:

On July 25, 1997, this Court issued an Order, quoted as follows:

X X X X

On several occasions when these cases were set for trial, neither Atty. Barcelo nor Atty. Pascua appeared, constraining the Court to postpone the hearing. The actuations of both lawyers result to delay in the early termination of these cases which have been pending since 1992.

X X X X

**WHEREFORE, the Republic of the Philippines is hereby deemed to have abandoned the case for the government.**

Attorney Dumpit for the defendant Matilde Apog, et al., is hereby required to manifest in writing on whether or not he is adopting the evidence already presented by the Republic of the Philippines, and if so, to make his offer of evidence within 30 days from today. Atty. Leyco is given 10 days from receipt of a copy of his offer to file his comment or opposition. Let the reception of evidence, if there be any on any part of Enrique Oribello, be set on October 24, 1997 at 10:00 a.m. as previously scheduled. And in addition thereto on November 21, and December 5, 1997 also both at 10:00 a.m. To give way to the filing of these pleadings, cancel the hearing scheduled for October 3, 1997.

Upon receipt of proof from the Post Office by this Court which will show that Atty. Pascua has received a copy of the Order dated July 25, 1997, the Motion to hold him in contempt will be deemed submitted for resolution. Furnish Atty. Barcelo, the Solicitor General, the Executive Regional Director, DENR, R-III, Angeles City, and Atty. Oscar Pascua, a copy of this Order. Attys. Dumpit and Leyco are both notified in open court of this Order.

SO ORDERED.<sup>[9]</sup>

The trial of the consolidated cases continued and the reception of evidence of the private parties proceeded.

However, in its Order of 21 February 2005, the trial court dismissed the consolidated cases without prejudice for non-substitution of the deceased plaintiff (Oribello) and his counsel, to wit:

Considering that the plaintiff's counsel is already dead, and the plaintiff is likewise dead already, there being no substitution of party-plaintiffs or any record showing the heirs or party in interest, these cases are dismissed without prejudice.<sup>[10]</sup>

Petitioner moved for reconsideration, contending that the Order applied exclusively to Civil Case No. 233-0-91 (for recovery of possession) and did not affect Civil Case No. 225-0-92 (for reversion of property). Petitioner prayed that it be allowed to

present its evidence.

Acting favorably on the motion, the trial court allowed the continuation of the presentation of petitioner's evidence in its Order dated 29 June 2005.<sup>[11]</sup>

Aggrieved, Oribello's heirs filed a Manifestation and Motion, bringing to the attention of the trial court the previous 12 September 1997 Order declaring petitioner to have abandoned the reversion case. Oribello's heirs pointed out that from the time petitioner received the Order in 1997, it did nothing to question the same, making the Order final.

In its Resolution of 12 July 2006, the trial court recalled its 29 June 2005 Order, and declared instead:

Finding merit in defendants' Motion and Manifestation, the Order dated 29 June 2005 granting the Motion for Reconsideration filed by the Solicitor General is recalled and the above-entitled case is DISMISSED.

SO RESOLVED.<sup>[12]</sup>

Petitioner appealed to the Court of Appeals.

### **The Ruling of the Court of Appeals**

The Court of Appeals denied petitioner's appeal. The Court of Appeals held "that the remedy of appeal is no longer available" to petitioner. The appellate court agreed with respondents that petitioner has lost its right to participate in the proceedings of Civil Case No. 225-0-92 when it failed to question the trial court's 12 September 1997 Order, declaring it to have abandoned the case. As a consequence of petitioner's inaction, such order inevitably became final.

Moreover, the Court of Appeals ruled that petitioner is barred by laches and estoppel for failing to challenge the 12 September 1997 Order after almost a decade from receipt thereof. The appellate court stated that "while the general rule is that an action to recover lands of public domain is imprescriptible, said right can be barred by laches or estoppel."

The Court of Appeals disposed of the case as follows:

**WHEREFORE**, the foregoing premises considered, the instant appeal is hereby **DENIED** for lack of merit.

**SO ORDERED.**<sup>[13]</sup> (Emphasis in the original)

The Court of Appeals denied the motion for reconsideration.

### **The Issues**

Petitioner anchors the present petition on the following grounds:

1. Interlocutory orders are not subject of appeal.
2. The consolidated cases, without any order of severance, cannot be subject of multiple appeals.
3. There can be no private ownership over an unclassified public forest.

### **The Ruling of the Court**

#### *Is the 12 September 1997 Order interlocutory?*

Petitioner contends that the 12 September 1997 Order of the trial court, deeming it to have abandoned the case, is interlocutory in nature; thus, is not appealable.<sup>[14]</sup> Respondents argue otherwise, maintaining that such Order is a dismissal of the complaint on the ground of failure to prosecute which is, under the Rules,<sup>[15]</sup> considered an adjudication on the merits, and hence appealable.

We agree with petitioner.

A final order is defined as "one which disposes of the subject matter in its entirety or terminates a particular proceeding or action, leaving nothing else to be done but to enforce by execution what has been determined by the court."<sup>[16]</sup>

Conversely, an interlocutory order "does not dispose of the case completely but leaves something to be decided upon"<sup>[17]</sup> by the court. Its effects are merely provisional in character and substantial proceedings have to be further conducted by the court in order to finally resolve the issue or controversy.<sup>[18]</sup>

Based on the records, petitioner has presented testimonial evidence on various hearing dates and marked numerous documents during the trial of Civil Case No. 225-0-92. Such acts do not manifest lack of interest to prosecute. Admittedly there was delay in this case. However, such delay is not the delay warranting dismissal of the complaint. To be a sufficient ground for dismissal, delay must not only be lengthy but also unnecessary resulting in the trifling of court processes.<sup>[19]</sup> There is no proof that petitioner intended to delay the proceedings in this case, much less abuse judicial processes.

While petitioner failed to appear on the hearing of 12 September 1997, such failure does not constitute a ground for the dismissal of the reversion complaint for failure to prosecute. Petitioner's non-appearance on that date should simply be construed as a waiver of the right to present additional evidence.<sup>[20]</sup>

We note that prior to the issuance of the 12 September 1997 Order, the trial court already warned petitioner on the likely adverse effect of its non-appearance on the next hearing date. If petitioner fails to attend the next scheduled hearing, the trial court would consider petitioner's presentation of evidence as terminated. Termination of presentation of a party's evidence does not equate to dismissal of the complaint for failure to prosecute. In fact, the trial court merely "deemed" petitioner