

## THIRD DIVISION

[ G.R. No. 161204, April 06, 2011 ]

**NATIONAL HOUSING AUTHORITY, PETITIONER, VS. HON. VICENTE Q. ROXAS (PRESIDING JUDGE OF REGIONAL TRIAL COURT, QUEZON CITY, BRANCH 227,) REGISTER OF DEEDS OF QUEZON CITY, LAND REGISTRATION AUTHORITY, OFFICE OF THE CITY, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, AND THE COURT OF APPEALS, RESPONDENTS.**

### DECISION

**BERSAMIN, J.:**

Petitioner National Housing Authority (NHA) appeals the resolution promulgated on September 7, 2001 (dismissing its petition for *certiorari* "for failure to comply with Sec. 1, Rule 65 of the 1997 Rules of Civil Procedure")<sup>[1]</sup> and the resolution promulgated on October 27, 2003 (denying its motion for reconsideration for lack of merit),<sup>[2]</sup> both issued in C.A.-G.R. No. SP No. 66409 entitled *National Housing Authority v. Hon. Vicente Q. Roxas, et. al.*, a special civil action for *certiorari*.

### Antecedents

People's Homesite and Housing Corporation (PHHC), NHA's predecessor,<sup>[3]</sup> was the registered owner of two large parcels of land situated in the then Municipality of San Juan Del Monte, Province of Rizal, but now a part of Quezon City (QC), covered by Transfer Certificate of Title (TCT) No. 1356 of the QC Register of Deeds (QCRD), with an estimated area of 386,732.40 square meters and 15,555,534.60 square meters. The parcels of land, which encompassed almost the entire area of the Diliman Estate, comprised various subdivisions like Project 1, Project 2, Project 3, Project 4, Project 6, Project 7, North Bago-Bantay, U.P Village, Barangay Central, Sikatuna Village, Barangay Pinahan, Barangay South Triangle, West Triangle, Barangay Sacred Heart, and other Barangays found inside the Diliman Estate. TCT No. 1356 was subdivided into 17,387 lots, more or less, under several survey plans. The subdivided lots were sold and disposed off to NHA's beneficiaries/lot buyers. Of the 17,387 subdivided lots, only 389 lots either remained undisposed or the sales contracts covering them had been executed by the PHHC or NHA in favor of the beneficiaries but the corresponding individual TCTs were yet to issue.

In 1987, NHA delivered its owner's copy of TCT No. 1356 to the QCRD to facilitate the numerous partial cancellations of TCT No. 1356 on account of the deeds of sale executed by NHA in favor of the beneficiaries. However, on June 11, 1988, fire razed the entire premises of QCRD and destroyed the original and the owner's duplicate copies of TCT No. 1356, along with many other records and documents then in the possession and custody of QCRD.

On March 12, 1999, NHA filed a petition for the reconstitution of TCT No. 1356 in

the Regional Trial Court in Quezon City (RTC). Its petition, docketed as LRC Case No. Q-99-11347, was raffled to Branch 227 of the RTC, presided by respondent Judge Vicente Q. Roxas.

NHA attached to its petition documents to prove its ownership and the identity of the lands involved, namely: (a) photocopy of the technical description of the parcels of land covered by TCT No. 1356 issued by the Lands Management Bureau of the Department of Environment and Natural Resources; (b) Subdivision Plan No. BSD 7365; (c) photocopy of a certification issued by QCRD to the effect that TCT No. 1356 was among the certificates of title destroyed by fire on June 11, 1988; (d) photocopy of TCT No. 1356 filed with NHA's Estate Management Title Custodian; and (e) list of the remaining 389 lots, identified by lot and block numbers, their respective areas, survey plan numbers, and their adjoining and adjacent properties.

The RTC set the petition for initial hearing on April 13, 1999 and directed NHA to submit twelve copies of the petition, certified true copies or originals of the annexes, certified true copies of tax declarations and tax receipts, and other jurisdictional requirements as provided by law.

NHA failed to comply with the directive and to appear at the initial hearing. Thus, on April 13, 1999, the RTC issued an order archiving LRC Case No. Q-99-11347 until compliance by NHA with the jurisdictional requirements.

On December 27, 2000, the RTC issued a resolution denying the NHA's petition for reconstitution for lack of merit, viz:

#### RESOLUTION

The petitioner herein has failed to comply with jurisdictional requirements continuously despite several opportunities afforded petition.

This case has been Archived since April 13, 1999.

WHEREFORE, premises considered, the application of petitioner] for reconstitution is hereby DENIED for lack of merit.

No petition for Reconstitution can be filed from hereon with any other court for TCT No. 1356 - this Court having exercised exclusive jurisdiction over the same in this Land Registration Case.

SO ORDERED.<sup>[4]</sup>

NHA sought reconsideration, explaining that it was ready and very much willing to comply with all of the requirements except for the certified true copies of the tax declarations and tax receipts that the Assessor's Office of Quezon City had not yet completed because of the voluminous documents involving the hundreds of hectares covered by TCT No. 1356. The RTC set NHA's motion for reconsideration for hearing on May 8, 2001 and directed NHA to comply with the legal requirements in order to show its good faith.<sup>5</sup>

In compliance, NHA submitted twelve copies of its petition for reconstitution (with annexes and original copies of the tax declarations covering 31 subdivided lots in the Malaya/East Subdivision, Bago-Bantay and Kamuning); and a letter from the QC Assessor's Office informing NHA of the failure to accede to NHA's request for the tax declarations and tax receipts.<sup>6</sup> At the RTC's order, NHA filed its memorandum, to which it attached a certified true copy of a photocopy of TCT No. 1356.

Nonetheless, the RTC issued two orders on May 30, 2001<sup>7</sup> and June 29, 2001<sup>8</sup> denying NHA's motion for reconsideration for lack of merit. Both order are respectively reproduced as follows:

#### ORDER

Petitioner's failure to present any additional documents on Motion for Reconsideration in compliance with jurisdictional requirements a few of which were directed to be complied with, as stated in the March 17, 1999 Order of this Court shows that the Motion For Reconsideration is without merit. This Petition has been pending for a long time now with petitioner having been given many years to comply.

WHEREFORE, premises considered, Motion For Reconsideration of Petitioner is hereby DENIED for lack of merit.

Pursuant to Section 15 of Republic Act No. 26, "dismissal shall not preclude the right of the party or parties entitled thereof to file an application for confirmation of his or their title under the provision of the Land Registration Act," but the issue of Reconstitution is final and bars any registered owner or interested person from filing a case for reconstitution with any other Court as to constitute forum shopping.

SO ORDERED.

#### ORDER

With the denial of the Motion for Reconsideration of petitioner, Reconstitution as course of action is now barred. What petitioner must do now is to file an action for confirmation of title under the provisions of the Land Registration Act Sec. 15 RA 26.

SO ORDERED.

NHA filed a notice of appeal seeking to elevate the dismissal for review by the CA. However, the RTC dismissed the appeal, pointing out that NHA had only a day left within which to file its notice of appeal due to NHA's having filed its motion for reconsideration that interrupted the running of the period for appeal on the fourteenth day; that the balance of one day expired on June 21, 2001 because NHA had received the denial of its motion for reconsideration on June 20, 2001; and that the filing of the notice of appeal on July 4, 2001 and the payment of the appellate court docket fees only on July 5, 2001 were made way past the June 21, 2001 deadline to perfect its appeal.

Aggrieved, NHA filed a petition for *certiorari* in the CA (C.A.-G.R. No. SP No. 66409), ascribing grave abuse of discretion to the RTC for dismissing its notice of appeal.

As earlier stated, the CA summarily dismissed the petition for *certiorari* because of the failure of NHA to attach to the petition the certified true copies of all the relevant pleadings and documents.

After NHA's motion for reconsideration was denied upon the additional ground that NHA's notice of appeal had been filed out of time in the RTC, NHA now appeals.

### **Issues**

In this appeal, NHA insists that the CA erred:

1. In dismissing NHA's petition for *certiorari* on technical grounds;
2. In not considering that the RTC's dismissal with prejudice of NHA's petition for reconstitution was made with grave abuse of discretion amounting to lack or excess of jurisdiction.

In its comment, the Office of the Solicitor General (OSG) conceded that the dismissal of the petition for reconstitution by the RTC was valid, considering NHA's failure to comply with the jurisdictional requirements (particularly the tax declarations and tax receipts). The OSG maintained that the RTC had not yet acquired jurisdiction over the petition; that the dismissal was not with prejudice, for what the RTC proscribed was the filing of a petition for reconstitution for TCT No. 1356 in another court that would constitute forum shopping; and that RTC rightly ruled on whether or not NHA had timely filed its notice of appeal.

### **Ruling**

We affirm the CA's resolutions, but we clarify that NHA may refile its petition for reconstitution of TCT No. 1356.

#### **A.**

#### **CA correctly dismissed the petition; RTC did not commit grave abuse of discretion**

Anent whether the CA correctly dismissed NHA's petition for *certiorari*, the Court stresses that NHA, as the petitioner, had the obligation to comply with the basic requirements for the filing of a petition for *certiorari* prescribed in Rule 65 of the *Rules of Court*, specifically to accompany the petition with a "certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46."

Section 3 of Rule 46 of the *Rules of Court*, which governs original cases filed in the CA (of which NHA's petition for *certiorari* was one), reiterates the requirements