

## FIRST DIVISION

[ G.R. No. 188471, April 20, 2010 ]

**FRANCISCO ALONSO, SUBSTITUTED BY MERCEDES V. ALONSO, TOMAS V. ALONSO AND ASUNCION V. ALONSO, PETITIONERS, VS. CEBU COUNTRY CLUB, INC., RESPONDENT, REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE OFFICE OF THE SOLICITOR GENERAL, PUBLIC RESPONDENT.**

### DECISION

**BERSAMIN, J.:**

By petition for review on *certiorari*, the petitioners appeal the order dated December 28, 2007 of the Regional Trial Court (RTC), Branch 20, in Cebu City, denying the *motion for issuance of writ of execution* of the Office of the Solicitor General (OSG) in behalf of the Government, and the order dated April 24, 2009, denying their *motion for reconsideration* filed against the first order.

#### Antecedents

The antecedent facts are those established in *Alonso v. Cebu Country Club*,<sup>[1]</sup> which follow.

Petitioner Francisco M. Alonso (Francisco) was the only son and sole heir of the late spouses Tomas N. Alonso and Asuncion Medalle. Francisco died during the pendency of this case, and was substituted by his legal heirs, namely: his surviving spouse, Mercedes V. Alonso, his son Tomas V. Alonso (Tomas) and his daughter Asuncion V. Alonso.<sup>[2]</sup>

In 1992, Francisco discovered documents showing that his father Tomas N. Alonso had acquired Lot No. 727 of the Banilad Friar Lands Estate from the Government in or about the year 1911; that the original vendee of Lot No. 727 had assigned his sales certificate to Tomas N. Alonso, who had been consequently issued Patent No. 14353; and that on March 27, 1926, the Director of Lands had executed a final deed of sale in favor of Tomas N. Alonso, but the final deed of sale had not been registered with the Register of Deeds because of lack of requirements, like the approval of the final deed of sale by the Secretary of Agriculture and Natural Resources, as required by law.<sup>[3]</sup>

Francisco subsequently found that the certificate of title covering Lot No. 727-D-2 of the Banilad Friar Lands Estate had been "administratively reconstituted from the owner's duplicate" of Transfer Certificate of Title (TCT) No. RT-1310 in the name of United Service Country Club, Inc., the predecessor of respondent Cebu Country Club, Inc (Cebu Country Club); and that upon the order of the court that had heard the petition for reconstitution of the TCT, the name of the registered owner in TCT No. RT-1310 had been changed to that of Cebu Country Club; and that the TCT

stated that the reconstituted title was a transfer from TCT No. 1021.<sup>[4]</sup>

It is relevant to mention at this point that the current TCT covering Lot 727-D-2 in the name of Cebu Country Club is TCT No. 94905, which was entered in the land records of Cebu City on August 8, 1985.<sup>[5]</sup>

With his discoveries, Francisco formally demanded upon Cebu Country Club to restore the ownership and possession of Lot 727-D-2 to him. However, Cebu Country Club denied Francisco's demand and claim of ownership, and refused to deliver the possession to him.<sup>[6]</sup>

On September 25, 1992, Francisco commenced against Cebu Country Club in the RTC in Cebu City an action for the declaration of nullity and non-existence of deed/title, the cancellation of certificates of title, and the recovery of property. On November 5, 1992, Cebu Country Club filed its answer with counterclaim.<sup>[7]</sup>

On May 7, 1993, the RTC decided in favor of Cebu Country Club.

Both parties appealed to the Court of Appeals (CA), which ultimately affirmed the RTC on March 31, 1997. Thus, Francisco filed a *motion for reconsideration*, which was denied on October 2, 1997.<sup>[8]</sup>

Nothing daunted, Francisco appealed to this Court (G.R. No. 130876).

On January 31, 2002, this Court decided G.R. No. 130876, decreeing:

WHEREFORE, we DENY the petition for review. However, we SET ASIDE the decision of the Court of Appeals and that of the Regional Trial Court, Cebu City, Branch 08.

IN LIEU THEREOF, we DISMISS the complaint and counterclaim of the parties in Civil Cases No. CEB 12926 of the trial court. We declare that Lot No. 727 D-2 of the Banilad Friar Lands Estate covered by Original Certificate of Title Nos. 251, 232, and 253 legally belongs to the Government of the Philippines.<sup>[9]</sup>

The petitioners sought a reconsideration. On December 5, 2003, however, the Court denied their *motion for reconsideration*.<sup>[10]</sup> Hence, the decision in G.R. No. 130876 became final and executory.

In late 2004, the Government, through the OSG, filed in the RTC a *motion for the issuance of a writ of execution*.<sup>[11]</sup> Cebu Country Club opposed the *motion for the issuance of a writ of execution* in due course.

Later on, the proceedings on the OSG's *motion for the issuance of a writ of execution* at the instance of Cebu Country Club in deference to the on-going hearings being conducted by the Committee on Natural Resources of the House of Representatives on a proposed bill to confirm the TCTs and reconstituted titles covering the Banilad Friar Lands Estate in Cebu City.<sup>[12]</sup> The Congress ultimately

enacted a law to validate the TCTs and reconstituted titles covering the Banilad Friar Lands Estate in Cebu City. This was Republic Act No. 9443,<sup>[13]</sup> effective on July 27, 2007.

Thereafter, both Cebu Country Club and the OSG brought the passage of R.A. No. 9443 to the attention of the RTC for its consideration in resolving the OSG's *motion for the issuance of a writ of execution*.<sup>[14]</sup> On December 28, 2007, therefore, the RTC denied the OSG's *motion for the issuance of a writ of execution* through the first appealed order.<sup>[15]</sup>

The petitioners filed a *motion for reconsideration* dated February 1, 2008, questioning the denial of the OSG's *motion for the issuance of a writ of execution*.<sup>[16]</sup>

Upon being directed by the RTC to comment on the petitioners' *motion for reconsideration*, the OSG manifested in writing that the Government was no longer seeking the execution of the decision in G.R. No. 130876, subject to its reservation to contest any other titles within the Banilad Friar Lands Estate should clear evidence show such titles as having been obtained through fraud.<sup>[17]</sup>

After the filing of the OSG's comment, the RTC issued the second appealed order, denying the petitioners' *motion for reconsideration*, giving the following reasons:

1. The party who had a direct interest in the execution of the decision and the reconsideration of the denial of the motion for execution was the Government, represented only by the OSG; hence, the petitioners had no legal standing to file the *motion for reconsideration*, especially that they were not authorized by the OSG for that purpose;
2. R.A. No. 9443 "confirms and declares as valid" all "existing" TCTs and reconstituted titles; thereby, the State in effect waived and divested itself of whatever title or ownership over the Banilad Friar Lands Estate in favor of the registered owners thereof, including Lot 727 D-2; and
3. The situation of the parties had materially changed, rendering the enforcement of the final and executory judgment unjust, inequitable, and impossible, because Cebu Country Club was now recognized by the State itself as the absolute owner of Lot 727 D-2.<sup>[18]</sup>

Hence, the petitioners appeal by petition for review on *certiorari*.

### **Contentions of the Petitioners**

The petitioners challenge the orders dated December 28, 2007 and April 29, 2009, because:

1. R.A. No. 9443 did not improve Cebu Country Club's plight, inasmuch as R.A. No. 9443 presupposed first a sales certificate that lacked the required signature, but Cebu Country Club did not have such sales certificate. Moreover,

the titleholders were in fact the owners of the lands covered by their respective titles, which was not true with Cebu Country Club due to its being already adjudged with finality to be not the owner of Lot 727-D-2. Lastly, Cebu Country Club's title was hopelessly defective, as found by the Supreme Court itself;

2. The doctrine of law of the case barred the application of R.A. No. 9443 to Cebu Country Club;
3. The RTC's declaration that R.A. No. 9443 confirmed Cebu Country Club as the absolute owner of Lot 727-D-2 despite the prior and final judgment of the Supreme Court that Cebu Country Club was not the owner was unconstitutional, because it virtually allowed the legislative review of the Supreme Court's decision rendered against Cebu Country Club;
4. The use of R.A. No. 9443 as a waiver on the part of the Government *vis-à-vis* Cebu Country Club was not only misplaced but downright repugnant to Act 1120, the law governing the legal disposition and alienation of Friar Lands; and
5. The petitioners had the requisite standing to question the patent errors of the RTC, especially in the face of the unholy conspiracy between the OSG and Cebu Country Club, on the one hand, and, on the other hand, the passage of R.A. No. 9443 and DENR Memorandum No. 16, both of which in fact made their predecessor Tomas N. Alonso's sales certificate and patent valid.<sup>[19]</sup>

### **Issues**

The Court confronts and resolves the following issues, to wit:

1. Whether or not the petitioners were the real parties-in-interest to question the denial by the RTC of the OSG's *motion for the issuance of a writ of execution*;
2. Whether or not R.A. No. 9443 gave the petitioners a legal interest to assail the RTC's orders; and
3. Whether or not the petitioners can appeal by petition for review on *certiorari* in behalf of the OSG.

### **Ruling**

The petition for review is denied due course.

#### **A.**

**Preliminary Considerations:  
Petitioners contravene the hierarchy of courts,  
and the petition is fatally defective**

Before delving on the stated issues, the Court notes that the petitioners are guilty of

two violations that warrant the immediate dismissal of the petition for review on *certiorari*.

The first refers to the petitioners' breach of the hierarchy of courts by coming directly to the Court to appeal the assailed issuances of the RTC *via* petition for review on *certiorari*. They should not have done so, bypassing a review by the Court of Appeals (CA), because the hierarchy of courts is essential to the efficient functioning of the courts and to the orderly administration of justice. Their non-observance of the hierarchy of courts has forthwith enlarged the docket of the Court by one more case, which, though it may not seem burdensome to the layman, is one case too much to the Court, which has to devote time and effort in poring over the papers submitted herein, only to discover in the end that a review should have first been made by the CA. The time and effort could have been dedicated to other cases of importance and impact on the lives and rights of others.

The hierarchy of courts is not to be lightly regarded by litigants. The CA stands between the RTC and the Court, and its establishment has been precisely to take over much of the work that used to be done by the Court. Historically, the CA has been of the greatest help to the Court in synthesizing the facts, issues, and rulings in an orderly and intelligible manner and in identifying errors that ordinarily might escape detection. The Court has thus been freed to better discharge its constitutional duties and perform its most important work, which, in the words of Dean Vicente G. Sinco,<sup>[20]</sup> "is less concerned with the decision of cases that begin and end with the transient rights and obligations of particular individuals but is more intertwined with the direction of national policies, momentous economic and social problems, the delimitation of governmental authority and its impact upon fundamental rights."<sup>[21]</sup>

The need to elevate the matter first to the CA is also underscored by the reality that determining whether the petitioners were real parties in interest entitled to bring this appeal against the denial by the RTC of the OSG's *motion for the issuance of a writ of execution* was a mixed question of fact and law. As such, the CA was in the better position to review and to determine. In that regard, the petitioners violate Section 1, Rule 45 of the 1997 *Rules of Civil Procedure*, which demands that an appeal by petition for review on *certiorari* be limited to questions of law.<sup>[22]</sup>

The second violation concerns the omission of a sworn certification against forum shopping from the petition for review on *certiorari*. Section 4, Rule 45 of the 1997 *Rules of Civil Procedure* requires that the petition for review should contain, among others, the sworn certification on the undertakings provided in the last paragraph of Section 2, Rule 42 of the 1997 *Rules of Civil Procedure*, viz:

#### Section 2. xxx

The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has