

SECOND DIVISION

[G.R. NO. 152149, April 25, 2006]

BENJAMIN SUBIDO, FOR AND IN BEHALF OF THE HEIRS OF THE LATE ABELARDO SUBIDO, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

GARCIA, J.:

Before the Court is this petition for review under Rule 45 of the Rules of Court to annul and set aside the decision^[1] dated March 23, 2001 of the Court of Appeals (CA) in CA-G.R. CV No. 55982 entitled "*Romeo N. Gorgod vs. Republic of the Philippines*," and its resolution^[2] dated January 30, 2002, denying petitioner's motion for reconsideration.

The assailed CA decision nullified and set aside the June 17, 1997 Decision^[3] of the Regional Trial Court (RTC) of Quezon City, Branch 82, in LRC Case No. Q-8151 (96), a petition for the reconstitution and issuance of a second owner's duplicate copy of Transfer Certificate of Title (TCT) No. 99582 of the Registry of Deeds of Quezon City, filed by Romeo N. Gorgod on behalf of the heirs of Abelardo Subido.

The decision under review recites the factual backdrop, as follows:

On March 26, 1996," ROMEO N. GORGOD filed with the trial court a petition for reconstitution and issuance of the owners (sic) duplicate copy as well as Transfer Certificate of Title (TCT) No. 95582 in the name of [Abelardo] Subido, covering a " lot in Diliman, Quezon City. The petition alleged among other things that the said TCT was among those burned during the fire that raged the Quezon City Hall sometime on June 11, 1988; that the owner's duplicate copy of the subject title was also lost sometime in November 1989 - that the lot is occupied by the heirs of Subido but leased to Pearlie's Restaurant.

During the July 25, 1996 hearing for the establishment of jurisdictional facts, ", [Gorgod] was allowed to amend his petition to include among others, an allegation that the lot plan from the records of [the] Land Registration Authority (LRA) and the certified technical description taken from a prior certificate of title covering the same property are submitted as sources or bases for the reconstitution of TCT No. 95582. The said amended petition was admitted by the Court in its Order dated September 12, 1996.

In a manifestation dated November 21, 1996, the LRA disclosed to the court that it cannot accomplish the report required under [SC] Circular No. 7-96 because [Gorgod] has not submitted the following:

(a) The original with two duplicated copies and xerox copy of the original of the technical description of the parcel of land covered by the lost/destroyed certificate of title, "

(b) The tracing cloth plan with two (2) copies of the subject parcel of land prepared by a duly license(d) Geodetic Engineer who shall certify thereon that its preparation was made on the basis of a certified technical description.

On December 12, 1996, the Republic manifested that based on the report of LRA, it is reserving its right to file a formal opposition to the petition. xxx. Consequently, the scheduled hearing was reset "

On January 28, 1997, [Gorgod] filed an urgent motion for postponement manifesting that his request to have the technical description of the lot be certified by the officials - of the LRA was denied, and praying that - the LRA be directed to submit a report on the basis of microfilm copy of approved plan (LRC) Psd 52016 in the name of Subido" which is existing at the Micrographic Division of the same office.

On January 29, 1997, the trial court ordered:

xxx xxx xxx

xxx the [LRA] to submit the required LRA Report on the subject property including the certified technical description thereof on the basis of the existing records available thereat within ten (10) days from receipt of this Order. The petitioner is hereby likewise ordered to submit the documents required by the [LRA] in its Letters dated May 20, 1996 and May 28, 1996.

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On February 13, 1997, LRA informed the court that they cannot accomplish the required report because the technical description submitted by [Gorgod] was not verified as required by regulations. -.

On February 17, 1997, [Gorgod] filed a manifestation and motion to reiterate the contents of an earlier motion dated January 27, 1997, alleging:

"5. That the people at the Land Registration Division insist that there is no record of (LRC) PSD-45150. If that is the case, then they can issue a report based on plan (L.R.C.) 52016 which is the plan covered under T.C.T. No. 95582 which is registered under the name of ABELARDO SUBIDO ;

6. That plan (LRC) PSD-45150 refers to the subdivision of the original 20,000 square meters, segregating the road lot from the main lot. -. The actual segregation of these two lots was not push

(sic) through by the late Commissioner Abelardo Subido;

7. That we reiterate before this Honorable Court that the Reconstitution division of the [LRA] be ORDERED TO PREPARE AND SUBMIT - THE REQUIRED L.R.A. REPORT USING PLAN (L.R.C.) PSD 52016; If Engineer Artemio Legazpi Chief Subdivision and Consolidation refuses to issue a report he should be cited in contempt of court.

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On March 14, 1997, the LRA filed its manifestation and opposition to the motion - on the ground that on February 12, 1997, - their verification section [had certified] to the effect that the original of the subdivision plan (LRC) Psd-45150 together with all the survey records pertaining thereto, is not available in their vault section. However, in its Order dated April 01, 1997, the [trial] court ruled that even if there was no record of (LRC) Psd-45150 available in LRA, [Gorgod] was able to secure a certified microfilm copy of plan (LRC) Psd-52016 which appears to be a subdivision survey of plan of (LRC) Psd-45150, a plan covered by TCT No. 95582 subject of the reconstitution. The LRA, according to the court, can prepare and submit the required report based on (LRC) Psd-52016.

In its Supplementary Report dated April 10, 1997, LRA alleged among other things:

"(4) In the 2nd Indorsement dated April 4, 1997 of Engr. Alberto H. Lingayo, Acting Chief, Ordinary and Cadastral Decree Division, this Authority, the following information relative to the above-stated petition and its enclosures were found to wit:

(1) "It appears in the xerox copy of TCT No.95582 (Annex "B"), that the subject parcel of land, Lot D-10-C-5, (LRC) Psd-45150, is a portion of Lot D-10-C, (LRC) Psd-43992, LRC Rec. No. 7984, both plans (LRC) Psd-45150 and (LRC) Psd-43992, however, are not available in the Micrographics Computer Division, this Authority.

(2) Lot D-10-C-5, (LRC) Psd-45150 appears to have been subsequently subdivided under plan (LRC) Psd-52016, copy of which is available in the Micrographics & Computer Division, this Authority;

(3) The technical description of lot D-10-C-5, (LRC) Psd-45150, subdivided under (LRC) Psd-52016, when plotted in our Municipal Index Sheet, falls inside Lot R.P. 3-B-3-A-1, Psd 10532, GLRO Rec. No. 7681, as surveyed for People's Homesite and Housing Corporation.".'

On April 27, 1997, the Republic called the attention of the [trial] court on the supplementary report submitted by LRA, and - asked for twenty (20) days within which to file a formal opposition to the petition. Hence, the hearing of the jurisdictional facts was reset to May 27, 1997.

On May 27, 1997, the Republic failed to appear and submit its formal opposition to the petition. Accordingly, [Gorgod] was allowed to establish jurisdictional facts. Immediately also, [Gorgod] was presented as the sole and only witness to justify the granting of the petition.

On May 28, 1997, the Republic submitted its formal opposition to the petition, attaching the Second Supplementary Report of LRA dated May 09, 1997, a copy of the Decision of the [CA] Special Ninth Division in CA G-R. CV Nos. 00705 and 00706 entitled, Heirs of Eulalio Ragua et al., petitioners-appellees, versus, Republic of the Philippines, et. al. The Second Supplementary Report which was formally submitted by LRA on May 29, 1997, pertinently reads:

"x x x x x x x x

3. In the 3rd Indorsement dated April 28, 1997 of Engr. Alberto H. Lingayo, Acting Chief, Ordinary and Cadastral Decree Division, this Authority, the following additional information, relative to the above-entitled petition and its enclosure were found to wit:

1. Perusal of TCT No. 95582 (Annex "B") shows that it is a derivative of OCT No. 632, -. the same OCT No. 632 which was the subject of Case No. C-119 (GLRO Rec. No. 7984) in consolidation with Civil Case No. Q-8559, Branch XVIII of the Court of First Instance of Quezon City. On 24 March 1980, the court a quo rendered its decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, the Court renders judgment "

1. In Civil Case No. 119, the Quezon City Register of Deeds is ordered to reconstitute in the name of Eulalia Ragua Original Certificate of Title No. 632, " ;

2. In Civil Case No. Q-8559 declaring null and void, and canceling the administratively reconstituted OCT 632 (8802) and Transfer Certificate of Title derived therefrom including TCT 88082, ", and all (or) any [TCT] derived therefrom.

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SO ORDERED."

That portion of the decision referring to Civil Case No. C-119 was appealed, and its decision promulgated on May 30, 1989, the Special Ninth Division of the [CA] reversed the judgment of the lower court, to quote:

"WHEREFORE, the judgment appealed from is reversed insofar

as it orders the reconstitution of OCT 632 in the name of Eulalio Ragua.

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2. From the foregoing, it is clear that TCT No. 95582, being a derivative of OCT No. 632, is null and void, hence, cannot be the subject of reconstitution.

[Gorgod], on June 03, 1997, filed a motion to strike off the May 28, 1997, Opposition and Reply Ad Cautelam. The Republic was required to file a rejoinder but failed. (Words in bracket and underscoring added).

On the basis of the foregoing factual considerations, the trial court, in its decisions of June 17, 1997, rendered judgment striking from the records the opposition of the Republic and disposing as follows:

WHEREFORE, premises considered, this Court finds that the evidence is sufficient and proper to warrant the reconstitution of lost and destroyed [TCT] No. 95582 and [Romeo N. Gorgod] in behalf of the heirs of the registered owner, has legal and equitable right and interest over the parcel of land subject of this Petition. Accordingly, this Court hereby declares the aforesaid TCT No. 95582 lost and/or destroyed and is no longer of any value, force and effect. Let this Order of Reconstitution of Title issue for TCT No. 95582, ordering the Clerk of Court to forward to the Register of Deeds of Quezon City a copy of this Order and all the documents which are to be used as the basis of reconstitution thereof. Thereafter, the said Register of Deeds shall issue the corresponding owner's duplicate of title for the parcel of land, subject of this Petition, with the corresponding areas in the name of ABELARDO SUBIDO.

The issuance of the Certificate of Title shall be conditioned upon payment of the required fees for the initial issuance thereof and provided further that no Certificate of Title of whatever nature covering the said parcel of land exists in the office of the Register of Deeds concerned which may be adversely affected thereby.^[4] (Words in bracket added.)

Therefrom, the Republic appealed to the CA in *CA-G.R. No. 55982* on the issue of jurisdiction and on the ground of insufficiency of evidence to justify the decreed reconstitution of title.

As stated at the outset hereof, the appellate court, in its decision dated March 23, 2001,^[5] nullified and set aside the trial court's decision. In time, petitioner moved for a reconsideration but his motion was denied by the CA in a resolution dated January 30, 2002.^[6]

Unsatisfied with the decision of the CA, Benjamin Subido, vice Romeo N. Gorgod who had meanwhile passed away, has, for the heirs of the late Abelardo Subido, interposed the instant petition for review contending that "