

## SECOND DIVISION

[ G.R. NO. 149114, July 21, 2006 ]

**SPS. TAN SING PAN AND MAGDALENA S. VERANGA,  
PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES,  
RESPONDENT.**

### DECISION

**GARCIA, J.:**

Assailed and sought to be set aside in this petition for review under Rule 45 of the Rules of Court is the Decision<sup>[1]</sup> dated February 23, 2001 of the Court of Appeals (CA) in *CA-G.R. CV No. 55325*, as reiterated in its Resolution<sup>[2]</sup> of July 20, 2001, reversing an earlier decision of the 7<sup>th</sup> Municipal Circuit Trial Court (MCTC) of Atimonan-Plaridel, Quezon, acting as a special land registration court, which confirmed petitioners' title to Lot No. 18009 in Cadastral Case No. 67, LRC GLRO Rec. No. 1026.

The facts:

Sometime in 1931, the Director of Lands, acting for and in behalf of the Government, instituted with the then Court of First Instance of Gumaca, Quezon (now Branch 61, Regional Trial Court, Gumaca, Quezon) Cadastral Case No. 67, LRC GLRO Rec. No. 1026 pursuant to the government's initiative to place all lands under the Cadastral System whereby titles for all lands within a stated area are adjudicated regardless of whether or not people living within the area desire to have titles.

More than six (6) decades later, or more specifically on October 14, 1996, herein petitioners - the spouses Tan Sing Pan and Magdalena S. Veranga - filed their Answer in Cadastral Case No. 67 over which jurisdiction was assumed by the 7<sup>th</sup> MCTC of Atimonan-Plaridel, Quezon, acting as a special land registration court by virtue of Supreme Court (SC) Administrative Circular No. 6-93-4 dated November 15, 1995 which was issued pursuant to Section 34 of *Batas Pambansa Blg. 129* as amended, and SC *en banc* Resolution dated March 25, 1993 in Administrative Matter No. 93-3-488-0.

In their Answer, petitioners asserted ownership over **Lot No. 18009** (formerly Lot No. 1027-A of the Subd. Plan Csd-04-015150 of the Atimonan Cadastre) with an area of 565 square meters, more or less, and located at Barangay Rizal, Atimonan, Quezon. Petitioners averred that they acquired the lot in question pursuant to a deed of sale executed in their favor on July 10, 1978 by the children of the late Juan Laude who, in turn, inherited the property from his own deceased father, Leon Laude, the original claimant thereof. Petitioners alleged that they have been in possession of the lot for about eighteen (18) years from the time they purchased it from their predecessors-in-interest, have paid the realty taxes due thereon, and that

their possession thereof was public, peaceful, in the concept of an owner, continuous and against the world. Tacking their possession to that of their predecessors-in-interest, petitioners claimed that they have been in possession of the subject lot for almost 60 years now.

On October 14, 1996, the 7<sup>th</sup> MCTC of Atimonan-Plaridel issued an Order admitting petitioners' aforementioned Answer, setting it for hearing and directing the posting of said Order in conspicuous places. It also directed the notification of all interested parties. Following the issuance by the branch clerk of court of a Certification to the effect that the Order had been posted, the trial court, noting that no opposition was filed, allowed petitioners to present their evidence *ex parte* in the course of which petitioner Magdalena Veranga testified having complied with all the jurisdictional requirements by sending notices to all interested parties thru registered mail.<sup>[3]</sup>

On November 25, 1996, the trial court rendered its decision<sup>[4]</sup> confirming petitioners' title over Lot No. 18009 and directing the issuance of a decree of registration in their favor, to wit:

WHEREFORE, this Court hereby approves Subdivision Plan Csd-04-015150 together with its technical description insofar as Lot No. 1027-A now equals to Lot No. 18009 of the Atimonan Cadastre is concerned, and confirming the order of general default previously entered in this case, all the requirements of the law having been complied with, this Court hereby adjudicates Lot No. 18009 before Lot No. 1027-A of Subdivision Plan Csd-04-015150 of the Atimonan Cadastre, together with the improvements existing thereon, in favor of movants-claimants spouses TAN SING PAN and MAGDALENA VERANGA, both of legal age, Filipino citizens, and residents of Atimonan, Quezon, as their conjugal partnership property, free from liens and encumbrances.

The road, highways, streets, alleys, water courses and other portions of land not specified as lot located within the border of the land covered by this case are declared property of the Republic of the Philippines.

Upon this decision becoming final, let a decree of confirmation and registration be entered and thereafter upon payment of the fees required by law, let the corresponding certificate of title be issued in the name of the movants-claimants.

SO ORDERED.

In time, the Republic, represented by the Office of the Solicitor General, went on appeal to the CA on the sole jurisdictional issue of whether the trial court erred in proceeding with the hearing of the case despite petitioners' failure to prove the publication of the Notice of Initial Hearing in the *Office Gazette*.

In the herein assailed Decision dated February 23, 2001, the CA granted the Republic's appeal and accordingly reversed and set aside the appealed decision of the trial court, thus:

WHEREFORE, the instant appeal is GRANTED and the appealed decision of the court *a quo* dated November 25, 1996 is hereby REVERSED and

SET ASIDE.

SO ORDERED.

Their motion for reconsideration having been denied by the CA in its equally challenged Resolution of July 20, 2001, petitioners are now with this Court *via* the present recourse on their principal submission that the CA committed reversible error in ruling that the trial court did not acquire jurisdiction over the case on account of their failure to present proof of publication of the Notice of Initial Hearing.

To petitioners, the jurisdictional requirement of publication of the Notice of Initial Hearing has been complied with way back in 1931 when the Director of Lands, acting for and in behalf of the Government, instituted Cadastral Case No. 67 because the present case is merely a continuation thereof. Petitioners insist that Cadastral Case No. 67 has long been the subject of court proceedings even before the outbreak of the Second World War and, consequently, all lots covered therein have already been included in the required publication. They also contend that the Republic cannot raise, and is already estopped from raising, this jurisdictional issue at this point in time when thousands of lots have already been adjudicated by the cadastral court without the need of publication. Petitioners hasten to add that, since it was the Director of Lands who initiated the cadastral proceedings, it was incumbent upon him to show proof of publication of the Notice of Initial Hearing.

Petitioners' arguments are specious.

To be sure, publication of the Notice of Initial Hearing in the *Official Gazette* is one of the essential requisites for a court to acquire jurisdiction in land registration and cadastral cases, and additional territory cannot be included by amendment of the plan without new publication.

Section 7 of the Cadastral Act (Act No. 2259) provides:

Sec. 7. Upon the receipt of the order of the court setting the time for initial hearing of the petition, the Commission on Land Registration shall cause notice thereof to be published twice, in successive issues of the Official Gazette, in the English language. The notice shall be issued by order of the Court, attested by the Commissioner of the Land Registration Office, xxx.

In *Director of Lands, et al. v. Benitez, et al.*,<sup>[5]</sup> the Court categorically stated that publication is essential to establish jurisdiction in land registration and cadastral cases, without which the court cannot acquire jurisdiction thereon or obtain any authority to proceed therewith.

Here, compliance with the publication requirement is rendered even more imperative by the fact that the lot involved was originally surveyed as Lot No. 1027 but what was adjudicated to petitioners is a portion designated as "Lot No. 1027-A now equal to Lot No. 18009 of the Atimonan Cadastre."<sup>[6]</sup> So it is that in *Philippine Manufacturing Company v. Imperial*,<sup>[7]</sup> the Court ruled: