

## SECOND DIVISION

[ G.R. NO. 140945, May 16, 2005 ]

**NATIONAL HOUSING AUTHORITY, PETITIONER, VS. JOSE  
EVANGELISTA, RESPONDENT.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

A person who was not impleaded in the complaint cannot be bound by the decision rendered therein, for no man shall be affected by a proceeding in which he is a stranger.<sup>[1]</sup>

This refers to the petition for review on *certiorari* filed by the National Housing Authority assailing the decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 51646, granting respondent's petition for annulment of judgment. The dispositive portion of the decision reads:

WHEREFORE, the petition is granted. The assailed part of paragraph No. 3 of the dispositive portion of the decision dated November 29, 1995 of the Regional Trial Court, Br. CIII, Quezon City in Civil Case No. Q-91-10071 is hereby declared void, non-binding and inapplicable in so far as petitioner's TCT No. 122944 is concerned.

Let a copy hereof be furnished the Register of Deeds of Quezon City for the proper annotation. No pronouncement as to costs.

SO ORDERED.<sup>[3]</sup>

Petitioner now comes before the Court with the following assignment of errors allegedly committed by the CA:

#### I

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE DECISION OF THE LOWER COURT IS NOT BINDING ON HEREIN RESPONDENT JOSE EVANGELISTA BECAUSE THE LOWER COURT DID NOT ACQUIRE JURISDICTION OVER HIS PERSON.

#### II

THE HONORABLE COURT LIKEWISE ERRED IN ANNULING THE DECISION OF THE LOWER COURT ON THE GROUND OF LACK OF DUE PROCESS OF LAW BECAUSE RESPONDENT JOSE EVANGELISTA WAS NOT IMPEADED AS A PARTY DEFENDANT IN PETITIONER'S ACTION FOR RECOVERY OF TITLE.<sup>[4]</sup>

The assailed decision of the CA originated from a civil case filed by petitioner before the Regional Trial Court of Quezon City (Branch CIII) for recovery of real property, docketed as Civil Case No. Q-91-10071.<sup>[5]</sup> Said case involves a real property measuring 915.50 square meters and located in V. Luna Road, Quezon City, originally awarded in 1968 by the People's Homesite and Housing Corporation (petitioner's predecessor) to a certain Adela Salindon. After the death of Salindon, her heirs executed an extra-judicial settlement where the property was transferred to Arsenio Florendo, Jr., Milagros Florendo, Beatriz Florendo and Eloisa Florendo-Kulphongpatana. However, in a decision in G.R. No. L-60544, entitled "Arsenio Florendo, Jr., et al. vs. Hon. Perpetuo D. Coloma, Presiding Judge of Branch VII, City Court of Quezon City, et al.," rendered by the Court on May 19, 1984, the award in favor of Salindon was nullified and set aside for having been issued in excess of jurisdiction and with grave abuse of discretion, and petitioner was declared the owner of the property.

Despite said decision, the property was auctioned off by the Quezon City Treasurer's Office on April 23, 1986, for unpaid real property taxes by the Florendos. The highest bidder was Luisito Sarte. Because the Register of Deeds refused to register the final deed of sale issued by the City Treasurer, Sarte filed a petition for issuance of title and confirmation of sale, which was granted by the Regional Trial Court of Quezon City (Branch 84). Consequently, the Register of Deeds issued Transfer Certificate of Title (TCT) No. 28182 in the name of Sarte, who divided the property into Lot 1-A, measuring 570.50 square meters and covered by TCT No. 108070, and Lot 1-B, measuring 345 square meters and covered by TCT No. 108071.<sup>[6]</sup>

It was in 1991 that petitioner filed Civil Case No. Q-91-10071 with Sarte, the City Treasurer of Quezon City and the Quezon City Register of Deeds, as defendants. While the case was pending, Sarte executed in favor of respondent Jose Evangelista, a Deed of Assignment dated December 2, 1994, covering Lot 1-A.<sup>[7]</sup> TCT No. 108070 was cancelled and TCT No. 122944 was issued in the name of respondent on December 21, 1994. Subsequently, the Register of Deeds annotated on TCT No. 122944 an Affidavit of Adverse Claim of petitioner, to wit:

Entry No. 7159/T-No. 122944: AFFIDAVIT OF ADVERSE CLAIM –

Executed under oath by Manuel V. Fernandez (in behalf of NHA), adverse claimant, claiming among others that NHA has the right of the ownership of the property being the subject of controversy in Civil Case No. Q-91-10071, entitled "National Housing Authority vs. Luisito Sarte, et al.," now pending before RTC, Br. 103, Q.C., Doc. No. 76, page 16, Bk. I, s. of 1995 of Not. Pub. of Q.C. Belsie Cailipan Sy.

Date of the instrument – May 4, 1995

Date of the inscription – May 4, 1995.<sup>[8]</sup>

and Notice of *Lis Pendens*, to wit:

Entry No. 1367/T-No. 122944: NOTICE OF LIS PENDENS –

By virtue of a notice of lis pendens presented and filed by Oscar I. Garcia & Virgilio C. Abejo, notice is hereby given that a case has been pending RTC, Q.C. in Civil Case No. Q-95-23940 entitled "National Housing

Authority, plaintiff, -vs.-Luistio Sarte, Jose Evangelista, Northern Star Agri-Business Corporation, BPI Agricultural Development Bank & the Register of Deeds of Quezon City, defendants," plaintiff praying for Annulment of the Deed of Assignment, Deed of Absolute Sale, Real Estate Mortgage, Cancellation of TCT Nos. 122944 and 126639 & damages.

Date of the Instrument – May 24, 1995

Date of the Inscription - May 31, 1995<sup>[9]</sup>

On May 1, 1995, petitioner filed a motion for leave to file supplemental complaint in Civil Case No. Q-91-10071, seeking to include respondent Evangelista, Northern Star Agri-Business Corporation and BPI Agricultural Development Bank as defendants. The proposed additional defendants were the subsequent purchasers of Lots 1-A and 1-B.<sup>[10]</sup> The trial court, however, denied the motion in its Order dated May 17, 1995.<sup>[11]</sup>

Thus, petitioner, on May 31, 1995, filed before the Regional Trial Court of Quezon City (Branch 82) a complaint for Annulment of Deed of Assignment, Deed of Absolute Sale, Real Estate Mortgage, Cancellation of TCT Nos. 122944 and 126639, and Damages, against Sarte, respondent Evangelista, Northern Star Agri-Business Corporation, BPI Agricultural Development Bank and the Register of Deeds of Quezon City, docketed as Civil Case No. Q-95-23940.<sup>[12]</sup> But the trial court dismissed without prejudice said case on October 23, 1995, on the ground of the pendency of Civil Case No. Q-91-10071.<sup>[13]</sup>

In a decision dated November 29, 1995, the trial court, in Civil Case No. Q-91-10071, rendered its decision in favor of petitioner, with the following dispositive portion:

ACCORDINGLY, judgment is hereby rendered in favor of the plaintiff National Housing Authority as follows:

1. The auction sale conducted by the Quezon City Treasurer in 1986 of the parcel of land consisting of 915.50 sq. m. subject of this case previously covered by TCT No. 138007 of the Register of Deeds of Quezon City issued in the name of Adela Salindon and wherein defendant Luisito Sarte was the auction buyer and TCT No. 239729 in the name of Arsenio Florendo, Milagros Florendo, Beatriz Florendo and Eloisa F. Kulphongpatana is hereby declared null and void ab initio;
2. TCT No. 28182 subsequently issued in the name of defendant Luisito Sarte by the Quezon City Registry of Deeds is hereby declared null and void ab initio and the herein defendant Quezon City Register of Deeds is hereby ordered to cancel said TCT 28182 in the name of Luisito Sarte;
3. **Any transfers, assignment, sale or mortgage of whatever nature of the parcel of land subject of this case made by defendant Luisito Sarte or his/her agents or assigns before or during the pendency of the instant case are hereby**

**declared null and void, together with any transfer certificates of title issued in connection with the aforesaid transactions by the Register of Deeds of Quezon City who is likewise ordered to cancel or cause the cancellation of such TCTs;**

4. The defendant Register of Deeds of Quezon City is hereby ordered to issue a new transfer certificate of title over the entire parcel of land (915.50 sq. m.) subject of this case in favor of the National Housing Authority by way of satisfying the Supreme Court in G.R. No. 50544 promulgated on May 1984;
5. The NHA is hereby required and authorized to put in place on the property at bar a notice, readable, bold, and stable, sufficiently signifying the essence of this court's decision so that no person may err as to the real ownership of the instant parcel of land and to fence the same to prevent entry of squatters or other illegal intruders.

The court further renders judgment as follows:

1. No pronouncement as to attorney's fees, costs and other damages as fundamentally the main responsible character here are the public officers sued in their official capacity.
2. The complaint-in-intervention by Teresita Vasquez is held premature in view of the disposition herein made in favor of NHA which can only fully act with regard to the claim of said intervenor after this decision becomes final. Moreover, insofar as and to the extent in which intervenor Vasquez has joined the NHA in the case at bench, her assertions and prayers have already been adjudged in this decision in favor of the plaintiff National Housing Authority.

SO ORDERED.<sup>[14]</sup> (Emphasis supplied)

Respondent then filed with the CA a petition for annulment of the trial court's judgment, particularly paragraph 3 of the dispositive portion, referring to the nullity of any transfer, assignment, sale or mortgage made by Sarte. In his petition, respondent alleged extrinsic fraud as ground. According to respondent, since he was not a party to Civil Case No. Q-91-10071, he was prevented from ventilating his cause, right or interest over the property, and the judgment was not binding on him, as the trial court did not acquire jurisdiction over his person.<sup>[15]</sup>

The CA granted the petition and declared null and void paragraph 3 of the dispositive portion of the trial court's decision insofar as petitioner's title to the property is concerned.<sup>[16]</sup> The CA found that respondent was not a party to Civil Case No. Q-91-10071 and the trial court did not acquire any jurisdiction over his person. The CA also ruled that the judgment violated respondent's right against deprivation of the property without due process of law.<sup>[17]</sup>

Its motion for reconsideration having been denied by the CA, petitioner took the present recourse.