

FIRST DIVISION

[G.R. No. 166645, November 11, 2005]

**VICENTE D. HERCE, JR., VS. MUNICIPALITY OF CABUYAO,
LAGUNA AND JOSE B. CARPENA, RESPONDENTS.**

D E C I S I O N

YNARES-SANTIAGO, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court assails the August 16, 2004 Decision^[1] of the Court of Appeals in CA-G.R. SP No. 79559 which affirmed the August 21, 1998 Order^[2] of the Regional Trial Court of Biñan, Laguna, Branch 24, to reopen the decree of registration issued by the Land Registration Authority (LRA) in favor of petitioner; and its January 13, 2005 Resolution^[3] denying the motion for reconsideration.

The facts as found by the Court of Appeals are as follows:

Sometime in the years 1956 and 1957, Juanita Carpena and company applied for the judicial registration of forty-four (44) parcels of land all situated in Cabuyao, Laguna, docketed as LRC Case No. N-438, LRC Record No. N-10514 with the then Court of First Instance of Laguna.

After trial on the merits, the trial court granted the application and directed the issuance of a decree of registration for the aforesaid forty-four parcels.

However, out of these forty-four parcels, only forty-two were issued decrees of registration. One of these two parcels for which no decree of registration was issued was made the subject of cadastral proceedings instituted by the Republic of the Philippines in 1976 docketed as Cadastral Case No. N-B-1-LRC, Cadastral No. N-651 with the Court of First Instance of Laguna, Branch 1.

The property is designated as Lot 3484 in Cadastral Case No. N-B-1 but previously, in the 1957 case filed by Juanita Carpena, the property was identified as Lot 1, Plan II-2719-A.

Petitioner Vicente D. Herce filed an opposition to the proceedings, informing the court that he had acquired ownership over the subject property, having purchased the same from a certain Jose Carpena in August of 1975. He alleged that Jose Carpena is one of the heirs of Juanita Carpena who filed LRC Case No. N-438 in 1956-57.

After trial, the court rendered decision on May 30, 1980 awarding the subject property in favor of petitioner Vicente Herce. However, in spite of

the favorable decision, a decree of registration could not be immediately issued considering that the subject property was included in the 1956-57 case filed by Juanita Carpena.

Thus in June 1995, petitioner filed a Motion to Modify Decision explaining that since no decree was issued yet in LRC Case No. N-438, the decision therein could still be modified by excluding the subject property in order to facilitate the issuance of the decree to him.

After hearing, the trial court issued an order dated May 3, 1996 granting the motion and directing the Land Registration Authority (hereinafter LRA) to finally issue a decree of registration in the name of petitioner Vicente Herce. The respondent Municipality of Cabuyao filed a motion for reconsideration of the trial court's order but this was denied by the court on December 27, 1996.

Aggrieved by the above-described orders of the trial court, the Municipality of Cabuyao filed, on May 15, 1996, a petition for the reconstitution of its alleged title over the disputed property docketed as LRC Case No. B-2118 before the RTC of Laguna, Branch 25, arguing among others that it was issued a decree of registration over the said property as early as 1911.

The petition was dismissed in an order dated February 5, 1996. In the meantime, the LRA issued a decree of registration in favor of petitioner on January 28, 1997 followed by the issuance of Original Certificate of Title No. 0-2099 in his name.

On January 27, 1998, the Municipality of Cabuyao filed a petition for the reopening of the decree of registration issued in favor of petitioner. This led to the issuance of the questioned August 21, 1998 Order directing the reopening and review of the decree of registration. The said order likewise set aside the order dated May 29, 1957 in LRC Case No. N-438 as well as the order dated May 3, 1996. The dispositive portion of the assailed August 21, 1998 Order reads:

In view of the foregoing rule, and considering the Report dated December 2, 1980, of the Acting Commissioner of Land Registration (Annex B of Claimant's Motion to Modify Decision in LRC Record No. N-10514) that Decree No. 4244 was issued on March 3, 1911 in LRC (GLRO), Record No. 6763, in favor of the Municipality of Cabuyao for apparently the same parcel of land applied for herein, this Court resolves to open the decree of registration issued herein. The Decision of this Court dated May 29, 1957, in Land Registration Case No. N-438, LRC Record No. 10514, insofar as Lot 1, Plan II-2719 only is concerned, and the Order of this Court dated May 3, 1996 are both set aside.

Set this case for presentation of evidence for claimant Vicente Herce, Jr. on September 28, 1998 at 8:30 a.m.

SO ORDERED.

Petitioner sought reconsideration of the above-quoted Order but this was similarly denied by the respondent court in an Order dated August 15, 2003.^[4]

Hence filed a petition for certiorari with the Court of Appeals which rendered a decision on August 16, 2004, the decretal portion of which reads:

WHEREFORE, the foregoing premises considered, the petition is DENIED DUE COURSE, and hereby ordered DISMISSED, and the challenged orders of the Regional Trial Court (RTC) of Laguna, Branch 24, AFFIRMED.

SO ORDERED.^[5]

The appellate court found that the lower court did not abuse its discretion in ordering the reopening of the decree of registration. It held that the trial court properly granted the reopening of the decree of title considering the existence of two conflicting titles – one in favor of petitioner and the other in the name of the Municipality of Cabuyao.

On January 13, 2005, the Court of Appeals denied for lack of merit petitioner's motion for reconsideration. Hence, the present appeal.

The crux of the controversy is whether or not the Court of Appeals erred in affirming the trial court's order to reopen the decree of registration.

Petitioner alleges that respondent municipality is guilty of laches because it asserted its ownership over the subject property only after the lapse of 84 years. Petitioner states that it was only in June 1995 that the municipality first claimed that it applied as early as 1911 for the registration of the subject property.

Petitioner asserts that there is no record of Decree No. 4244 that was purportedly issued in favor of the municipality on March 3, 1911 other than the entry in the Ordinary Registration Book of the LRA. He argues that since there is no record of the alleged Decree No. 4244, there is no way of determining which of the six lots applied for registration is/are covered by the decree. Petitioner insists that the lack of documentary proof and the fact that respondent municipality never had possession of the subject property prove that it never owned the disputed property.

Petitioner contends that the petition to open a decree of registration will not prosper if the alleged fraudulent deprivation of ownership had been controverted, litigated, and resolved. Since the manner by which he acquired the subject property was squarely litigated and resolved in the cadastral case, petitioner argues that respondent municipality could no longer question the factual findings of the cadastral court, as this would violate the principle of *res judicata*.

Moreover, petitioner insists that respondent municipality is barred from filing a petition to review the decree of registration since, despite actual notice of the cadastral case in 1976 and the 1957 Carpena case, it failed to participate therein and prove its alleged ownership of the subject property.

He asserts that the belated claim of Jose B. Carpena that he withdrew the money he paid for the subject property and applied the same as payment for another lot, cannot be given credence. Petitioner clarifies that the September 1978 agreement to purchase another property was never implemented as he eventually decided to purchase the subject property. He points out that if the September 1978 agreement actually existed, Carpena would have entered his opposition in the 1980 cadastral case and claimed rescission of the sale.

Petitioner doubts the veracity of Carpena's assertion that he (Carpena) was waiving his "legal rights and interests" over the subject property in favor of the respondent. He avers that considering the long period of time that has elapsed before Carpena made such claim, it becomes obvious that the affidavit was executed upon the instigation of the respondent municipality to give semblance of merit to its claim of ownership over the disputed property.

In its Comment,^[6] respondent municipality avers that the instant petition for review raises factual issues which are beyond the scope of the appellate jurisdiction of the Supreme Court. As such, petitioner cannot invoke the jurisdiction of the Supreme Court to examine, weigh the probative value of the parties' evidence and re-examine the factual findings of the Court of Appeals, particularly on its findings that respondent municipality satisfied the requirements of Act No. 496 for the reopening of the decree of registration of the subject land.

Respondent municipality argues that petitioner cannot rely on the principle of laches considering that he failed to show that the reopening of the decree of registration would be manifestly unjust and inequitable. It maintains that it possesses an existing right over the disputed property and that its petition to reopen the decree of registration will not transgress upon other existing right or would result in inequity.

It contends that the surrounding circumstances of the present case show that the essential elements of laches are lacking. It is not in delay in asserting its claim of ownership since it was not properly notified of the previous land registration proceedings involving the disputed lot. It clarifies that the notice that was published referred to Lot No. 3484, whereas the lot decreed for respondent municipality under Decree No. 4244 was Lot 1 Plan II-2719-A, and it was only subsequently found that said lots are one and the same. The document executed by petitioner on August 26, 1975 shows that the latter had knowledge of a possible claim for recovery of ownership that may be brought by a third party against him over the said property. And, it is the respondent's interest over the property that would be prejudiced in case the issue of ownership will be settled in favor of petitioner.

Respondent claims that Decree No. 4244 was issued in its favor although pertinent records evidencing said decree of registration were lost or destroyed during the war. It points out that the entries in the approved survey plan for the Municipality of Cabuyao show that Decree No. 4244 was issued on March 3, 1911 under Cadastral Case No. 6763, as confirmed by the report submitted by the LRA to then CFI, Branch 1, Biñan, Laguna in LRA Cadastral Case No. N-B-1, LRA Rec. No. N-651 dated December 2, 1980, where it was stated that Lot 1 Plan II-2719-A was one of the six parcels of land previously applied by respondent municipality for registration in LRC (GLRO) Rec. No. 6763, and that according to their Ordinary Decree Book, LRC (CLR) Rec. No. 6763, Decree No. 4244 was issued on March 3, 1911 over Lot 1