474 Phil. 125

SECOND DIVISION

[G.R. No. 134433, May 28, 2004]

SPS. WILFREDO DEL ROSARIO AND FE LUMOTAN DEL ROSARIO, PETITIONERS, VS. VIRGILIO MONTAÑA AND GENEROSO CARLOBOS, RESPONDENTS.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a petition for certiorari under Rule 65 of the Rules of Court assailing the decision dated February 9, 1998 rendered by the Regional Trial Court of Caloocan City (Branch 121) dismissing petitioners' complaint for quieting of title with recovery of possession *de jure.*

The facts of this case are undisputed.

On September 14, 1973, then President Ferdinand E. Marcos issued Presidential Decree No. 293, canceling certain sales certificates and/or transfer certificates of title in the name of Carmel Farms, Inc. which cover the Tala Estate in Caloocan City, and declaring these properties open for disposition to the Malacañang Homeowners Association, Inc. (MHAI). Consequently, on October 25, 1983, petitioner Fe Lumotan***, a member of the MHAI, filed an application to purchase Lot No. 18, Blk-19, Pangarap Village, Caloocan City, which is part of the Tala Estate.[1] Meanwhile, respondent Virgilio Montaña's father, Margarito Montaña, filed a claim against the application of petitioner but was rejected by the Bureau of Lands in its Order dated November 2, 1983.[2] Eventually, the property was awarded to petitioner per Bureau of Lands Decision dated December 10, 1984[3] and TCT No. 120788 was issued in the name of petitioner.[4] Although not in actual possession of the disputed property, petitioner has been paying the taxes thereon.[5]

Four years after, or on January 29, 1988, this Court in *Tuason vs. Register of Deeds, Caloocan City,*[6] declared P.D. No. 293 unconstitutional. The decretal portion of the decision reads:

> WHEREFORE, Presidential Decree No. 293 is declared to be unconstitutional and void *ab initio* in all its parts. The public respondents are commanded to cancel the inscription on the titles of the petitioners and the petitioners in intervention of the memorandum declaring their titles null and void and declaring the property therein respectively described "open for disposition and sale to the members of the Malacañang Homeowners Association, Inc.;" to do whatever else is needful to restore the titles to full effect and efficacy; and henceforth to refrain, cease and desist from implementing any provision or part of said Presidential Decree No. 293. No pronouncement as to costs.[7]

Thus, on September 23, 1988, the Register of Deeds of Caloocan City inscribed Entry No. 218192 on petitioner's title, invalidating the certificate of title pursuant to the pronouncement of the Court in the above-entitled case.[8]

Petitioner then visited the property some time in 1995 and discovered that respondent Montaña had already constructed a house thereon. Respondent claimed that petitioner Fe had already lost her rights over the property. Consequently, on January 17, 1997, petitioner, joined by her husband Wilfredo del Rosario, filed a complaint for Quieting of Title with Recovery of Possession *de jure.*[9]

Respondent filed his Answer alleging that he is the true and lawful owner of the property as his father bought the property from the Bureau of Lands, and TCT No. T-120788 in the name of petitioner had already been invalidated. [10]

During pre-trial, the parties agreed on the following stipulation of facts:

> 2. Both parties admit that the defendants are in actual possession of the property in question;
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> . . .
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> 5. Both parties admit that the annotation at the dorsal portion of TCT No. 127088 was the result of the declaration of the Supreme Court citing PD 293 as unconstitutional.[11]

Thereafter, the trial court, in its decision dated February 9, 1998, dismissed the complaint finding that, inasmuch as petitioner's title to the property was included in those covered by P.D. No. 293, she cannot assert any right thereon because her title "springs from a null and void source."[12]

Hence, the petition for certiorari filed by spouses del Rosario.

Petitioners believe that their title to the property is indefeasible for the reason that prior to the declaration of nullity of P.D. No. 293, its actual existence was an operative fact that may have consequences that cannot be ignored. Petitioners also cite *Clarita Aben vs. Sps. Wilfredo Abella, et al.* (CA-G.R. CV No. 31544) decided by the Court of Appeals in February 19, 1993 upholding Aben's ownership of Lot 21, Block 80 of the Tala Estate which was awarded to her by the Bureau of Lands pursuant to P.D. No. 293, to wit:

> While it is true that P.D. 293 had been declared null and void by the Supreme Court, it did not declare herein plaintiff-appellee's title null and void. Instead, said court commanded the Register of Deeds, Kalookan City, the then Ministry of Justice and the National Treasurer 'to do whatever else is needful to restore the titles to full effect and efficacy' of the Tuasons and the members of the 'Consuelo Homeowners Association' who were also divested of their lands by the same P.D. 293. But as the evidence reveal, plaintiff-appellee's title has not yet been cancelled (Exhibit "L").[13]

On the other hand, respondents contend that the petition was filed out of time as petitioners received a copy of the RTC's Decision on May 25, 1998, and the petition

was filed only on July 22, 1998 which is beyond the 15-day reglementary period provided for in Section 2, Rule 45 of the Rules of Court.

Thus, the Court is now confronted with two issues: First, the procedural issue of whether or not the instant petition was timely filed; and Second, whether or not petitioner's title to the property is deemed invalidated when this Court declared P.D. No. 293 unconstitutional in *Tuason vs. Register of Deeds, Caloocan City.*

As regards the procedural issue, petitioners refute respondent's allegation that the petition was filed out of time, asserting that the present action is one for *certiorari* under Rule 65 of the Rules of Court, hence, the sixty-day reglementary period is applicable.[14]

What is being assailed in the present petition is the decision of the Regional Trial Court dismissing their complaint for Quieting of Title with Recovery of Possession *de jure,* which is a final order.

> An order is deemed final when it finally disposes of the pending action so that nothing more can be done with it in the lower court (Mejia v. Alimorong, 4 Phil. 572; Insular Government v. Roman Catholic Bishop of Nueva Segovia, 17 Phil. 487; People v. Macaraig, 54 Phil. 904). In other words, a final order is that which gives an end to the litigation (Olsen & Co. v. Olsen, 48 Phil. 238). The test to ascertain whether an order is interlocutory or final is: does it leave something to be done in the trial court with respect to the merits of the case? If it does, it is interlocutory; if it does not, it is final (Moran, Comments on the Rules of Court, Vol. 1, 3rd ed. pp. 806-807). A final order is that which disposes of the whole subject-matter or terminates the particular proceedings or action, leaving nothing to be done but to enforce by execution what has been determined (2 Am. Jur., section 22, pp. 861-862). (Reyes v. De Leon, G.R. No. L-3720, June 24, 1952). [15]

Therefore, the proper mode of appeal should be a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, and not a special civil action for *certiorari* under Rule 65. As such, it should have been filed within the 15-day reglementary period.[16] Clearly, on the basis of such ground alone, the petition should be dismissed.

Moreover, petitioners clearly disregarded the doctrine of *hierarchy of courts* which serves as a general determinant of the proper forum for the availment of the extraordinary remedies of *certiorari,* prohibition, *mandamus, quo warranto, and habeas corpus.*[17] As held in *People vs. Court of Appeals:*

> There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filled with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor,

> clearly and specifically set out in the petition. This is established policy. It is a policy that us necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket.[18]

While the doctrine admits of certain exceptions, i.e., special and important reasons or for exceptional and compelling circumstances,[19] the circumstances of this case do not permit the application of such exceptions.

Considering, therefore, that the present special civil action of *certiorari* under Rule 65 is within the concurrent original jurisdiction of the Supreme Court and the Court of Appeals, the petition should have been initially filed in the Court of Appeals in strict observance of the doctrine on the hierarchy of courts.

However, the Court may brush aside the procedural barrier and take cognizance of the petition as it raises an issue of paramount importance and constitutional significance.[20] Thus, in order to set matters at rest, the Court shall resolve the second issue or the merits for future guidance of the bench and bar.

In the *Tuason* case, the Court declared P.D. No. 239 as unconstitutional and void *ab initio* in all its parts.[21] It becomes imperative to determine the effect of such declaration on Torrens titles that have been issued to persons who in good faith, had availed of the benefits under P.D. No. 239 before it was declared void *ab initio* for being unconstitutional. We have consistently held that the Torrens system is not a means of acquiring titles to lands; it is merely a system of registration of titles to lands.[22]

At this point, a brief discourse on the decision of the Court in *Tuason vs. Register of Deeds, Caloocan City* is in order.

In 1965, petitioners Tuason spouses bought from Carmel Farms, Inc. (Carmel for brevity) a parcel of land in the subdivision of Carmel by virtue of which Carmel's Torrens title over said lot was cancelled and a new title issued in the name of the Tuason spouses. Eight years thereafter, or in September 14, 1973, the then President Ferdinand E. Marcos issued Presidential Decree No. 293, portions of which read as follows:

> . . . according to the records of the Bureau of Lands, neither the original purchasers nor their subsequent transferees have made full payment of all installments of the purchase money and interest on the lots claimed by the Carmel Farms, Inc., including those *on which the dwellings of the members of said Association* stand. Hence, title to said land has remained with the Government, and the land *now occupied by the members of said association* has never ceased to form part of the property of the Republic of the Philippines, any and all acts affecting said land and purporting to segregate it from the said property of the Republic of the Philippines being therefore null and void *ab initio* as against the law and public policy.
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