

THIRD DIVISION

[G.R. No. 111715, June 08, 2000]

MANUEL SILVESTRE BERNARDO and the HEIRS OF JOSE P. BERNARDO namely, TELESFORA BERNARDO, ROBERTO BERNARDO, WILFRIDO BERNARDO, LUIS BERNARDO and MELCHOR BERNARDO, petitioners, vs. COURT OF APPEALS, THE ARANETA INSTITUTE OF AGRICULTURE, INC., EMBASSY TERRACES HOMES CONDOMINIUM CORPORATION and THE HEIRS OF VICTORIA D. SANTOS, namely, MIGUEL, CARIDAD, MANUEL, TERESITA, ALICIA, ANTONIO MIGUEL and MA. LOURDES, all surnamed SANTOS, respondents.

[G.R. No. 112876]

ANITA S. LIM, BENJAMIN A. TANGO and ANTONIO C. GONZALES, petitioners, vs. COURT OF APPEALS, ARANETA INSTITUTE OF AGRICULTURE, INC., EMBASSY TERRACE HOMES CONDOMINIUM CORPORATION, and HEIRS OF VICTORIA SANTOS namely, MIGUEL, CARIDAD, MANUEL, TERESITA, ALICIA, ANTONIO MIGUEL and MA. LOURDES, all surnamed SANTOS, respondents.

D E C I S I O N

GONZAGA-REYES, J.:

These consolidated petitions for review on certiorari aim to reverse the August 19, 1993 Decision ^[1] of the Court of Appeals that disposed CA-G.R. SP No. 30815 as follows:

"WHEREFORE, the Order dated October 17, 1985 rendered by the Regional Trial Court of Pasig, Branch 165, in LRC Case No. N-138, reconstituting Transfer Certificate of Title No. 12658 is declared Null and Void for lack of jurisdiction and in violation of the basic requirements of due process. The reconstituted Transfer Certificate of Title No. 12658, in the name of Tomas Bernardo, issued by the Register of Deeds of Quezon City is likewise declared Null and Void.

A writ is, hereby, issued permanently prohibiting respondent Regional Trial Court of Quezon City, Branch 88, from further conducting proceedings in Civil Case No. 92-12645, except to dismiss the complaint, and receive evidence on the counter-claim of the herein petitioners.

SO ORDERED."

The instant controversy evolved from the following facts on record:

On July 16, 1985, Manuel Silvestre Bernardo, claiming to be the "legitimate son and only surviving heir" of Tomas Bernardo, filed with the Regional Trial Court of Pasig a

verified petition for reconstitution [2] of Transfer Certificate of Title No. 12658 that the Register of Deeds of Rizal Province issued in the name of Tomas Bernardo. TCT No. 12658 allegedly covered an area of approximately three hundred thirty-four thousand five hundred eleven (334,511) square meters in "Quezon City (previously part of Rizal Province)" designated as Lot 802 of the Piedad Estate. Docketed as L.R.C. Case No. R-138, the petition alleged that the owner's copy of TCT No. 12658 was in petitioner Manuel Bernardo's custody, stored with other "old papers," but subsequent diligent search for it proved futile. When he verified from the Register of Deeds of Pasig, Rizal, petitioner Manuel Bernardo was allegedly told that the original copy of TCT No. 12658 had "likewise been lost/destroyed and (could) no longer be recovered." He had not "pledged nor delivered to any person or entity to secure any obligation or for any purpose whatsoever," the owner's copy of the title that was in his possession. Neither was there any "transaction or document relating thereto" that had been presented for or pending registration in the Register of Deeds office. Furthermore, TCT No. 12658 had not been "recalled, cancelled or revoked" and hence it was "in full force and effect." Petitioner Manuel Bernardo also alleged that since his deceased father died, he had "continuously exercised actual ownership and possession over the property embraced in and covered by said title." He asserted that the "technical descriptions, boundaries and area of the parcel of land" covered by TCT No. 12658 "are substantially the same as those indicated in the official Technical Descriptions" attached to the petition and the officially approved survey plan that he would present at the hearing. He indicated therein the properties adjoining the property covered by TCT No. 12658 as follows:

"On the N., Lots 724 & 935 (Piedad Estate) owned/claimed by Far Eastern University, Manila; on the E., Lot 933 (Piedad Estate) owned/claimed by San Pedro Estate represented by Engracio San Pedro of 118 Kamias Road, Quezon City; on the S., Lot 706 (Piedad Estate) owned/claimed by San Pedro Estate, supra; and on the NW., Lot 705 (Piedad Estate) owned/claimed by Himlayang Pilipino, Quezon Blvd., Quezon City;"

On the strength of the certification allegedly issued by the Register of Deeds of Pasig, Rizal stating that the original copy of TCT No. 12658 was "on file and record under Reg. Book T-51" and that he could no longer locate the owner's copy of TCT No. 12658, petitioner Manuel Bernardo contended that reconstitution of the same certificate of title was "proper and necessary." Otherwise, he could not exercise his legitimate rights as owner of the property.

On August 8, 1985, the Pasig RTC [3] issued an Order setting the petition for hearing on October 3, 1985 and directing that its Order be posted at the bulletin board of the Halls of Justice in Pasig. It also directed that the same Order be published for three (3) consecutive weeks in the Filipino Times as well as in the Official Gazette, pursuant to Section 13 of Republic Act No. 26.[4]

At the hearing on October 3, 1985, the Pasig RTC found that petitioner Manuel Bernardo's mother, Perfecta Blas, predeceased his father, Tomas Bernardo, who thereafter married Constancia Cruz. Tomas' second marriage was without issue. Thus, when Tomas died in 1944, petitioner Manuel Bernardo became Tomas' sole heir to the property covered by TCT No. 12658. Petitioner Manuel Bernardo took possession of the property but when he wanted to exercise his proprietary rights thereon, diligent search in his *aparador* failed to yield the owner's copy of the title.

On October 17, 1985, the Pasig RTC granted the petition for reconstitution of title. In the Order^[5]

5 it issued on that day, the court said:

"Petitioner's evidence, both oral and documentary, has likewise proved and established, to the satisfaction of the Court, that the corresponding survey plan and technical description of the property covered by TCT No. 12658, duly approved by the Bureau of Lands are still intact; that the property is fully cultivated, planted to fruit trees and a farm lot constructed thereon (Exhs. `N', `N-1', `O', `O-1'); that the requirements mentioned in the Order (Exhs. `A' and `A-1'), with respect to posting and publication have been duly complied with (Exhs. `B', `B-1', `G', `H', `H-1' to `H-4', `I', `I-1', `F'). No encumbrance of whatever nature affect the realty covered by said title."

That Order having become final and executory, it was entered in the daybook of the Registry of Deeds on November 21, 1985, together with the certificate of finality.^[6]

On December 12, 1985, the Acting Commissioner of Land Registration, through Ricardo F. Arandilla, filed a manifestation^[7] before the Pasig RTC. It stated that the Order of October 17, 1985 was issued by that court *before* the Land Registration Commission could approve the plan and technical description of Lot No. 802 of the Piedad Estate "as required by Section 12 of Republic Act No. 26." The same manifestation stated that the Commission was not furnished with the documents^[8] required by LRC Circular No. 35 dated June 11, 1983. It thus prayed that in the meantime that petitioner Manuel Bernardo had not yet submitted the required documents, implementation of the Order of October 17, 1985 should be held in abeyance.

Accordingly, on January 15, 1986, the Pasig RTC issued an Order requiring petitioner Manuel Bernardo to submit to the Land Registration Commission the documents required by LRC Circular No. 35.^[9] On January 23, 1986, the Acting Register of Deeds of Pasig forwarded to the Land Registration Commissioner the same documents required by LRC Circular No. 35 "in relation to our letter on *consulta* dated November 25, 1985."^[10]

On January 31, 1986, Acting Commissioner Oscar R. Victoriano of the National Land Titles and Deeds Registration Administration (NLTDRA) issued a Resolution in LRC Consulta 1490 on account of the doubts that the Pasig Register of Deeds entertained on whether or not he should proceed with the registration of the Order of October 17, 1985. Said Register of Deeds had certified the records of the case to the NLTDRA with these observations:

"The parcel of land covered by TCT No. 12658 sought to be reconstituted is, according to the records, Lot 802 of the Piedad Estate, situated in Pasong Tamo, Quezon City with an area of 334,511 square meters.

Under the law, petitions for judicial reconstitution shall be filed with the proper Court of First Instance now Regional Trial Court (Sec. 2, Rep. Act No. 26). The question may be asked. Is it the Regional Trial Court in

Pasig or the Regional Trial Court in Quezon City? The original copy of the title appears to have been lost in the Registry of Deeds of Rizal in Pasig, but the property covered by the title is situated in Quezon City.

With due respect to the Court Order issued by the Honorable Regional Trial Court, we elevated this matter *en consulta* to that Commission at our instance in view of our doubt as to whether we may proceed to register the subject Court Order and issue the corresponding transfer certificate of title although the land covered is located in Quezon City and not in Rizal. Is it the Register of Deeds of Rizal who should reconstitute?"

[11]

Citing *Bacalso v. Ramolete*^[12] and *Ella v. Salanga*,^[13] Acting Commissioner Victoriano ruled that since Quezon City and Pasig belonged to the Regional Trial Court of the National Capital Judicial Region, either branch may take jurisdiction over the petition for reconstitution of title. Thus, the Pasig RTC had jurisdiction to issue the Order reconstituting the title in question. On the issue as to whether it is the Register of Deeds of Pasig or the Register of Deed of Quezon City who should register the Order of October 17, 1985, the Acting Commissioner held that pursuant to Section 51 of P.D. No. 1527, the Register of Deeds of Quezon City should perform that task. Accordingly, he ordered the transmittal of the necessary documents to the Register of Deeds of Quezon City.^[14]

On June 4, 1986 the Pasig RTC ordered the issuance of a writ of execution to implement the Order of October 17, 1985.^[15] The following day, the acting clerk of court and ex-officio sheriff of Pasig accordingly issued the writ of execution^[16] that was served on the Register of Deeds of Pasig on January 26, 1987.^[17]

It appears that the Register of Deeds of Rizal and Ricardo F. Arandilla, the Chief of the Clerks of Court of the Land Registration Commission (LRC), refused to execute the Order of October 17, 1985. Thus, petitioner Manuel Bernardo filed a petition to cite them in indirect contempt of court. In his answer to that petition, Arandilla admitted that said Order was elevated to the LRC "by way of *consulta*" but that the documents required by LRC Circular No. 35 were submitted to the LRC not in virtue of that *consulta* but in compliance with said circular. Arandilla alleged that he could not have submitted the required documents while these were "pending examination and verification by the Commission" especially because "the findings of the Chief, Department of Registration, show that said plan and technical description submitted by petitioner overlaps other properties." On account of that finding, the Chief of the Department of Registration advised the Bureau of Lands thereof and requested that verification be made on the overlapping parcels of land. However, since the Bureau of Lands had not replied to the request, it would be improper for Arandilla to forward the documents to the Register of Deeds.^[18]

Thereafter, with his report dated August 20, 1987,^[19] Administrator Teodoro G. Bonifacio of the NLTDRA submitted to the Pasig RTC the plan in tracing cloth and two (2) print copies of Lot 802, Piedad Estate, and their corresponding technical descriptions on account of the following findings:

"(3) Upon plotting of the technical description of Lot 802, Piedad Estate, on the municipal index sheets of this Office, the same was found to

overlap Lot 935-C, Psd-8994, covered by Transfer Certificate of Title No. 148176 issued in the name of Freeman Incorporated. This finding is contained in the 1st Indorsement dated August 18, 1987^[20] of the Chief, Department on Registration, this Administration, x x x.

(4) The extent of overlapping between Lot 802, Piedad Estate, and Lot 935-C, Psd-8994, is graphically shown in Sketch Plan No. SK-86-053 where Lot 802 is drawn in black lines while Lot 935-C is reflected in red lines. x x x."

Nonetheless, it appears that at 1:05 p.m. on January 4, 1988, TCT No. 12658 in the name of Tomas Bernardo was entered in the Registry of Deeds of Quezon City.^[21] Annotated at the back of the title are the following inscriptions:

"MEMO. This Certificate of title was issued pursuant to the Order (P.E.-1453/T-12658) dtd. Oct. 17, 1985, issued by the Court (RTC) Br. CLXV (165), Pasig, Metro Manila, LRC No. R-138 Manuel Silvestre Bernardo, (Heir of deceased Tomas Bernardo), Petitioner, and by virtue of the resolution promulgated in LRC Consulta No. 1490 dated January 31, 1986.

Quezon City, January 4, 1987(sic)

SAMUEL C. CLEOFÉ
Register of Deeds"^[22]

On July 3, 1992, armed with the reconstituted title, petitioner Manuel Bernardo and the Heirs of Jose P. Bernardo filed before the Quezon City RTC, Civil Case No. Q-92-12645, a complaint for annulment of certificates of title. Named defendants therein are persons and entities that petitioner Manuel Bernardo had found to be in possession of certificates of title over property within that covered by his reconstituted title. They are the following: Heirs of Burgos Pangilinan, Embassy Terraces Homes Condominium, Araneta Institute of Agriculture, Inc. and/or Bonifacio Subdivision, National Electrification Administration, A & E Industrial Corporation, Paulino G. Pe and Milestone Development Corporation. Except for Araneta Institute of Agriculture, Inc. (AIAI), these defendants filed their respective answers to the complaint. AIAI filed a motion to dismiss the complaint on these grounds: (a) plaintiffs' lack of legal capacity to institute the action; (b) lack of cause of action, and (c) plaintiff's cause of action, if any, had been waived, abandoned or otherwise extinguished on the grounds of estoppel and laches.^[23]

Thereafter, the plaintiffs (hereafter the Bernardos) amended their complaint to implead as defendants the heirs of Dr. Victoria D. Santos. The amended complaint^[24] alleged further that Manuel Bernardo *and his brother* Jose, had been in possession of the property in question since their father died intestate on November 29, 1944 but it was Manuel who was in possession of the certificate of ownership of the property. After Jose's death on March 17, 1961, his heirs "assisted" Manuel in "the possession of the said parcel of land." In 1979, Manuel searched his locker for the certificate of title that he needed for the *relocation* of the property but despite exercise of due diligence, his efforts proved futile. He thus went to the Register of Deeds in Pasig, only to find out that the original certificate of title was also missing.