350 Phil. 779

FIRST DIVISION

[G.R. No. 101387, March 11, 1998]

SPOUSES MARIANO AND ERLINDA LABURADA, REPRESENTED BY THEIR ATTORNEY-IN-FACT, MANUEL SANTOS, JR., PETITIONERS, VS. LAND REGISTRATION AUTHORITY, RESPONDENT.

D E C I S I O N

PANGANIBAN, J:

In an original land registration proceeding in which applicants have been adjudged to have a registrable title, may the Land Registration Authority (LRA) refuse to issue a decree of registration if it has evidence that the subject land may already be included in an existing Torrens certificate of title? Under this circumstance, may the LRA be compelled by mandamus to issue such decree?

The Case

These are the questions confronting this Court in this special civil action for mandamus[1] under Rule 65 which asks this Court to direct the Land Registration Authority (LRA) to issue the corresponding decree of registration in Land Registration Case (LRC) No. N-11022.[2]

The Facts

Petitioners were the applicants in LRC Case No. N-11022 for the registration of Lot 3-A, Psd-1372, located in Mandaluyong City. On January 8, 1991, the trial court, acting as a land registration court, rendered its decision disposing thus:[3]

> "WHEREFORE, finding the application meritorious and it appearing that the applicants, Spouses Marciano [sic] and Erlinda Laburada, have a registrable title over the parcel of land described as Lot 3A, Psd-1372, the Court declares, confirms and orders the registration of their title thereto.
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> As soon as this decision shall become final, let the corresponding decree be issued in the name of spouses Marciano [sic] and Erlinda Laburada, both of legal age, married, with residence and postal address at No. 880 Rizal Ave., Manila."

After the finality of the decision, the trial court, upon motion of petitioners, issued an order[4] dated March 15, 1991 requiring the LRA to issue the corresponding decree of registration. However, the LRA refused. Hence, petitioners filed this action for mandamus.[5]

Attached to the LRA's comment on the petition is a report dated April 29, 1992 signed by Silverio G. Perez, director of the LRA Department of Registration, which explained public respondent's refusal to issue the said decree:[6]

“In connection with the Petition for Mandamus filed by Petitioners through counsel, dated August 27, 1991 relative to the above-noted case/record, the following comments are respectfully submitted:

On March 6, 1990, an application for registration of title of a parcel of land, Lot 3-A of the subdivision plan Psd-1372, a portion of Lot 3, Block No. 159, Swo-7237, situated in the Municipality of San Felipe Neri, Province of Rizal was filed by Spouses Marciano [sic] Laburada and Erlinda Laburada;

After plotting the aforesaid plan sought to be registered in our Municipal Index Sheet, it was found that it might be a portion of the parcels of land decreed in Court of Land Registration (CLR) Case Nos. 699, 875 and 817, as per plotting of the subdivision plan (LRC) Psd-319932, a copy of said subdivision plan is Annex ‘A’ hereof;

The records on file in this Authority show that CLR Case Nos. 699, 875 & 917 were issued Decree Nos. 240, 696 and 1425 on August 25, 1904, September 14, 1905 and April 26, 1905, respectively;

On May 23, 1991, a letter of this Authority was sent to the Register of Deeds, Pasig, Metro Manila, a copy is Annex ‘B’ hereof, requesting for a certified true copy of the Original Certificate of Title No. 355, issued in the name of Compania Agricola de Ultramar;

On May 20, 1991, a certified true copy of the Original Certificate of Title (OCT) No. 355 was received by this Authority, a copy is Annex ‘C’ hereof, per unsigned letter of the Register of Deeds of Pasig, Metro Manila, a copy is Annex ‘D’ hereof;

After examining the furnished OCT NO. 355, it was found that the technical description of the parcel of land described therein is not readable, that prompted this Authority to send another letter dated April 15, 1992 to the Register of Deeds of Pasig, Metro Manila, a copy is Annex ‘E’ hereof, requesting for a certified typewritten copy of OCT No. 355, or in lieu thereof a certified copy of the subsisting certificate of title with complete technical description of the parcel of land involved therein. To date, however, no reply to our letter has as yet been received by this Authority;

After verification of the records on file in the Register of Deeds for the Province of Rizal, it was found that Lot 3-B of the subdivision plan Psd-1372 being a portion of Lot No. 3, Block No. 159, Plan S.W.O. -7237, is covered by Transfer Certificate of Title No. 29337 issued in the name of Pura Escurdia Vda. de Buenaflor, a copy is attached as Annex ‘F’ hereof. Said TCT No. 29337 is a transfer from Transfer Certificate of Title No. 6595. However, the title issued for Lot 3-A of the subdivision plan Psd-1372 cannot be located because TCT No. 6595 consisting of several sheets are [sic] incomplete.

For this Authority to issue the corresponding decree of registration sought by the petitioners pursuant to the Decision dated January 8, 1991 and Order dated March 15, 1991, it would result in the duplication of titles over the same parcel of land, and thus contravene the policy and purpose of the Torrens registration system, and destroy the integrity of the same (G.R. No. 63189, Pedro E. San Jose vs. Hon. Eutropio Migriño, et al.,); x x x.”

In view of the foregoing explanation, the solicitor general prays that the petition be dismissed for being premature.

After the filing of memoranda by the parties, petitioners filed an urgent motion, dated September 4, 1995,[7] for an early resolution of the case. To this motion, the Court responded with a Resolution, dated October 23, 1995, which ordered:[8]

> "x x x Acting on the urgent motion for early resolution of the case dated 04 September 1995 filed by petitioner Erlinda Laburada herself, the Court resolved to require the Solicitor General to report to the Court in detail, within fifteen (15) days from receipt of this Resolution, what concrete and specific steps, if any, have been taken by respondent since 19 May 1993 (the date of respondent's Memorandum) to actually verify whether the lot subject of LRC Case No. N-11022 (Regional Trial Court of Pasig, Branch 68), described as Lot 3A, Psd-1372 and situated in Mandaluyong City, might be a portion of the parcels of land decreed in Court of Land Registration Case (CLR) Nos. 699, 875 and 917."

On December 29, 1995, the solicitor general submitted his compliance with the above resolution, to which was attached a letter dated November 27, 1997 of Felino M. Cortez, chief of the LRA Ordinary and Cadastral Decree Division, which states:[9]

"With reference to your letter dated November 13, 1995, enclosed herewith is a copy of our letter dated 29 April 1992 addressed to Hon. Ramon S. Desuasido stating among others that Lot 3-B, of the subdivision plan Psd-1372, a portion of Lot 3, Blk. 159, Swo-7237 is really covered by Transfer Certificate of Title No. 29337 issued in the name of Pura Escurdia Vda. de Bunaflor [sic] which was transfer[ed] from Transfer Certificate of Title No. 6395, per verification of the records on file in the Register of Deeds of Rizal. However, the title issued for the subject lot, Lot 3-A of the subdivision plan Psd-1372, cannot be located because TCT #6595 is incomplete.

It was also informed [sic] that for this Authority to issue the corresponding decree of registration sought by the petitioners pursuant to the decision dated January 9, 1991 and order dated March 15, 1991, would result in the duplication of [the] title over the same parcel of land, and thus contravene the policy and purposes of the torrens registration system, and destroy the integrity of the same (O.R. No. 63189 Pedro K. San Jose vs. Hon. Eutropio Migriño, et. al.).

Hence, this case will be submitted to the Court for dismissal to avoid duplication of title over the same parcel of land."

Issue

Petitioners submit this lone issue:[10]

> "Whether or not Respondent Land Registration Authority can be compelled to issue the corresponding decree in LRC Case No. N-11022 of the Regional Trial Court of Pasig, Branch LXVIII (68)."

The Court's Ruling

The petition is not meritorious.

Sole Issue: *Is Mandamus the Right Remedy?*

Petitioners contend that mandamus is available in this case, for the LRA "unlawfully neglect[ed] the performance of an act which the law specifically enjoins as a duty resulting from an office x x x." They cite four reasons why the writ should be issued. *First,* petitioners claim that they have a "clear legal right to the act being prayed for and the LRA has the imperative duty to perform" because, as land registration is an *in rem* proceeding, the "jurisdictional requirement of notices and publication should be complied with."[11] Since there was no showing that the LRA filed an opposition in this proceeding, it cannot refuse to issue the corresponding decree. *Second,* it is not the duty of the LRA to "take the cudgels for the private persons in possession of OCT No. 355, TCT No. 29337 snf [sic] TCT No. 6595." Rather, it is the "sole concern of said private person-holders of said titles to institute in a separate but proper action whatever claim they may have against the property subject of petitioners' application for registration." *Third,* petitioners contend that they suffered from the delay in the issuance of their title, because of "the failure of the Register of Deeds of Pasig, Metro Manila to furnish LRA of [sic] the certified copies of TCT No. 29337 and TCT No. 6595" notwithstanding the lack of opposition from the holders of said titles.[12] *Fourth,* the State "consented to its being sued" in this case[;] thus, the legislature must recognize any judgment that may be rendered in this case "as final and make provision for its satisfaction."[13]

On the other hand, the LRA, represented by the solicitor general, contends that the decision of the trial court is not valid, considering that "[the] Court of First Instance has no jurisdiction to decree again the registration of land already decreed in an earlier land registration case and [so] a second decree for the same land is null and void."[14] On the question of whether the LRA can be compelled to issue a decree of registration, the solicitor general cites *Ramos vs. Rodriguez*[15] which held:[16]

> "Nevertheless, even granting that procedural lapses have been committed in the proceedings below, these may be ignored by the Court in the interest of substantive justice. This is especially true when, as in this case, a strict adherence to the rules would result in a situation where the LRA would be compelled to issue a decree of registration over land which has already been decreed to and titled in the name of another.
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> It must be noted that petitioners failed to rebut the LRA report and only alleged that the title of the Payatas Estate was spurious, without offering any proof to substantiate this claim. TCT No. 8816, however, having been issued under the Torrens system, enjoys the conclusive presumption of validity. As we declared in an early case, '(t)he very purpose of the Torrens system would be destroyed if the same land may be subsequently brought under a second action for registration.' The application for registration of the petitioners in this case would, under the circumstances, appear to be a collateral attack of TCT No. 8816 which is not allowed under Section 48 of P.D. 1529." (Underscoring supplied.)

We agree with the solicitor general. We hold that mandamus is not the proper remedy for three reasons.

First: *Judgment Is Not Yet Executory*

> Contrary to the petitioners' allegations, the judgment they seek to enforce in this petition is not yet executory and incontrovertible under the Land Registration Law. That is, they do not have any clear legal right to

implement it. We have unambiguously ruled that a judgment of registration does not become executory until after the expiration of one year after the entry of the final decree of registration. We explained this in *Gomez vs. Court of Appeals*:[17]

> "It is not disputed that the decision dated 5 August 1981 had become final and executory. Petitioners vigorously maintain that said decision having become final, it may no longer be reopened, reviewed, much less, set aside. They anchor this claim on section 30 of P.D. No. 1529 (Property Registration Decree) which provides that, after judgment has become final and executory, the court shall forthwith issue an order to the Commissioner of Land Registration for the issuance of the decree of registration and certificate of title. Petitioners contend that section 30 should be read in relation to section 32 of P.D. 1529 in that, once the judgment becomes final and executory under section 30, the decree of registration must issue as a matter of course. This being the law, petitioners assert, when respondent Judge set aside in his decision, dated 25 March 1985, the decision of 5 August 1981 and the order of 6 October 1981, he clearly acted without jurisdiction.
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> Petitioners' contention is not correct. Unlike ordinary civil actions, the adjudication of land in a cadastral or land registration proceeding does not become final, in the sense of incontrovertibility until after the expiration of one (1) year after the entry of the final decree of registration. This Court, in several decisions, has held that as long as a final decree has not been entered by the Land Registration Commission (now NLTDRA) and the period of one (1) year has not elapsed from date of entry of such decree, the title is not finally adjudicated and the decision in the registration proceeding continues to be under the control and sound discretion of the court rendering it."

Second: *A Void Judgment Is Possible*

That the LRA hesitates in issuing a decree of registration is understandable. Rather than a sign of negligence or nonfeasance in the performance of its duty, the LRA's reaction is reasonable, even imperative. Considering the probable duplication of titles over the same parcel of land, such issuance may contravene the policy and the purpose, and thereby destroy the integrity, of the Torrens system of registration.

In *Ramos vs. Rodriguez,*[18] this Court ruled that the LRA is mandated to refer to the trial court any doubt it may have in regard to the preparation and the issuance of a decree of registration. In this respect, LRA officials act not as administrative officials but as officers of said court, and their act is the act of the court. They are specifically called upon to "extend assistance to courts in ordinary and cadastral land registration proceedings."

True, land registration is an *in rem* proceeding and, therefore, the decree of registration is binding upon and conclusive against all persons including the government and its branches, irrespective of whether they were personally notified of the application for registration, and whether they filed an answer to said application. This stance of petitioners finds support in Sec. 38 of Act 496 which provides:

> "SEC. 38. If the court after hearing finds that the applicant or adverse claimant has title as stated in his application or adverse claim and proper for registration, a decree of confirmation and registration shall be entered. Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in