

FIRST DIVISION

[G.R. No. 126673, August 28, 1998]

**STRAIT TIMES INC. REPRESENTED BY RAFAEL M. IRIARTE,
PETITIONER, VS. COURT OF APPEALS AND REGINO PEÑALOSA,
RESPONDENTS.**

D E C I S I O N

PANGANIBAN, J.:

It is judicially settled that a trial court does not acquire jurisdiction over a petition for the issuance of a new owner's duplicate certificate of title, if the original is in fact not lost but is in the possession of an alleged buyer. Corollarily, such reconstituted certificate is itself void once the existence of the original is unquestionably demonstrated. Nonetheless, the nullity of the reconstituted certificate does not by itself settle the issue of ownership or title over the property, much less does it vest such title upon the holder of the original certificate. The issue of ownership must be litigated in appropriate proceedings. It cannot be determined in an action for the issuance of a new owner's duplicate certificate of title or in proceedings to annul such newly issued duplicate.

The Case

Before this Court is a petition for review on certiorari, filed by Petitioner Strait Times, Inc. represented by Atty. Rafael M. Iriarte, seeking the reversal of the March 24, 1995 Decision and the October 16, 1996 Resolution of the Court of Appeals^[1] in CA-GR SP No. 35546.

In an action for the issuance of a new owner's duplicate certificate of title filed by Private Respondent Regino Peñalosa, the Regional Trial Court (RTC) of Tacloban City, Branch 9, issued this "Order"^[2] dated May 16, 1994:

"WHEREFORE, Judgment is hereby rendered declaring TCT Nos. T-3767 and T-28301[,] which were lost[,] as null and void [i]f the same would [accidentally] re-appear and/or be recovered or come into the possession of the petitioner after the grant of this petition; and ordering the Register of Deeds of Tacloban City to issue in favor of petitioner, Regino Peñalosa, a new owner's duplicate of TCT Nos. T-3767 and T-28301 after paying all the corresponding legal fees prescribed by law, which titles shall contain the same terms and conditions or which shall in all respects be entitled to like faith and credit as the original duplicate, in accordance with Sec. 109 of Act No. 496, as amended."

After said Order became final and executory, petitioner filed a petition for its annulment, which was dismissed by Respondent Court in the assailed Decision:^[3]

"WHEREFORE, the petition is hereby denied due course and dismissed. Costs against petitioner."

Reconsideration was denied in the challenged Resolution.

The Facts

In its Decision, Respondent Court summarized the facts of this case as follows:^[4]

"It appears that private respondent lost his owner's duplicates of two land titles, namely, TCT No. T-3767 and T-28301. He filed a verified petition before the [RTC of Tacloban City] for [the] issuance of new owner's duplicates. Thereafter, [the RTC] granted the petition, declaring the lost titles, TCT Nos. T-3767 and T-28301 as null and void and ordering the Register of Deeds of Tacloban City to issue to petitioner new owner's duplicates of said titles, after payment of fees, in accordance with Sec. 109, Act No. 496, as amended.

"The judgment (titled "Order") became final and executory on June 7, 1994.

"On October 10, 1994, petitioner caused a Notice of Adverse Claim to be annotated on TCT No. T-28301.

"Petitioner Strait Times, Inc. claims that it bought Lot 2604-B-3-A covered by TCT No. T-28301 from Conrado Callera who, in turn, purchased it from Regino Penalosa in whose name TCT No. T-28301 [was] registered. Its duly authorized representative, Atty. Rafael Iriarte, had been in possession of the said lot and the owner's duplicate of TCT No. T-28301 since August 14, 1984. Petitioner thus seeks to annul and set aside the Order of [the trial] [c]ourt with respect to [the] issuance of a new owner's duplicate of TCT No. T-28301 on the ground of extrinsic fraud.

"Petitioner avers that:

'7. x x x the [trial] [c]ourt was misled by the application for the issuance of the second owner[']s copy of [TCT] No. 28301 in lieu of the alleged lost one by x x x Emiliana Espinosa who misinformed the [c]ourt that the said title was not pledged or otherwise delivered to any person or entity to guarantee any obligation or for any purpose when the truth is that it was delivered to Condaro (sic) "Eddie" Callera on August 14, 1984 and kept by me when the said [lot] w[a]s sold to said Conrado "Eddie" Callera on August 14, 1984 by Regino Peñalosa x x x.

'8. [T]hat the application's motive for the issuance of the second owner[']s copy was to defraud the vendee or buyer of the land and he had committed perjury as to the affidavit of loss and false testimony in [c]ourt and deceived the [c]ourt. x x x"

Ruling of Respondent Court

Respondent Court dismissed the petition to annul the RTC Decision on procedural and substantive grounds. First, the petition failed to include an affidavit of merit supporting its cause of action. Second, petitioner did not prove extrinsic fraud. The Court of Appeals held that petitioner was constructively notified of the proceedings, because the Register of Deeds was furnished a copy of the petition for the issuance

of a new owner's duplicate of title. Rejecting petitioner's allegation that private respondent had concealed from the trial court the existence of a prior sale of the said property in petitioner's favor, Respondent Court said:[5]

"xxx Petitioner argues that private respondent concealed from the [trial] court the matter regarding the sale of the subject property to Conrado Callera under a Deed of Absolute Sale of Real Property dated August 14, 1984 and the delivery of TCT No. T-28301 to Atty. Iriarte. It bewilders the imagination, though, how a land title entered only on May 20, 1986 at the Office of the Register of Deeds of Tacloban City could be delivered by the land owner to his vendee on August 14, 1984. It is no less strange, too, how a deed of sale executed on August 14, 1984 could bear reference to TCT No. T-28301 which was issued only on May 20, 1986 after the mother title, T-24075, was cancelled. The alleged sale of August 14, 1984 was not brought to the attention of the Office of the Regist[er] of Deeds of Tacloban City until it received a copy thereof on October 7, 1994."

Hence, this petition.[6]

The Issues

Petitioner failed to state a concise statement of the issues raised. On the other hand, the solicitor general broadly couched the issue in this wise: "whether xxx Respondent Court xxx erred when it dismissed the petition to annul [the] judgment of the Regional Trial Court of Tacloban City xxx [which the latter] rendered in a petition for the issuance of a new owner's duplicate certificate of title." [7]

After sifting through the pleadings, the Court hereby reformulates the issues involved as follows: (1) was there extrinsic fraud on the part of private respondent in obtaining the new owner's duplicate of title? and (2) did the RTC have jurisdiction to issue the aforementioned Order?

The Court's Ruling

The petition should be granted.

First Issue:

No Extrinsic Fraud

Under Section 2, Rule 47 of the Rules of Court, a final judgment may be annulled upon either of two grounds: (1) extrinsic fraud and (2) lack of jurisdiction.[8] We rule that there was no extrinsic fraud, but that the trial court had no jurisdiction to render the assailed Judgment.

Petitioner contends that the RTC Decision was tainted with extrinsic fraud, because the trial court relied on private respondent's misrepresentation that the title to the land in issue was lost. In fact, the title was in petitioner's possession all the while. Thus, petitioner alleges:[9]

"6. xxx [T]hat the [trial] [c]ourt was misled by the application for the issuance of the second owner[']s copy of title no. 28301 in lieu of the alleged lost one by the Attorney-in-fact of Regino Penalosa by the name of Emiliana Espinosa who misinformed the [c]ourt that the title was not

pledged or otherwise delivered to any person or entity to guarantee any obligation or otherwise delivered to any person for any purpose xxx."

In short, the alleged extrinsic fraud was private respondent's testimony that the owner's duplicate certificate of title was lost.

To repeat, a final judgment may be annulled on the ground of extrinsic or collateral - not intrinsic -- fraud. Fraud is regarded as extrinsic or collateral, where a litigant commits acts outside^[10] of the trial of the case, "the effect of which prevents a party from having a trial, a real contest[,], or from presenting all of his case to the court, or where it operates upon matters pertaining, not to the judgment itself, but to the manner in which it was procured so that there is not a fair submission of the controversy."^[11] As held in *Palanca v. The American Food Manufacturing Co.*,^[12] extrinsic fraud is present under the following circumstances:

"xxx Where the unsuccessful party had been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise; or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff; or where an attorney fraudulently or without authority assumes to represent a party and connives at his defeat; or where the attorney regularly employed corruptly sells out his client's interest to the other side xxx."

The overriding consideration is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court. Hence, the Court has held that extrinsic fraud is present in cases where a party (1) is deprived of his interest in land, because of a deliberate misrepresentation that the lots are not contested when in fact they are;^[13] (2) applies for and obtains adjudication and registration in the name of a co-owner of land which he knows has not been allotted to him in the partition;^[14] (3) intentionally conceals facts and connives with the land inspector, so that the latter would include in the survey plan the bed of a navigable stream;^[15] (5) deliberately makes a false statement that there are no other claims;^[16] (6) induces another not to oppose an application; (7) deliberately fails to notify the party entitled to notice;^[17] or (8) misrepresents the identity of the lot to the true owner, causing the latter to withdraw his opposition.^[18] Fraud, in these cases, goes into and affects the jurisdiction of the court; thus, a decision rendered on the basis of such fraud becomes subject to annulment.

In contrast, the fraud alleged in this case cannot justify the annulment of a final judgment. It is well-settled that the use of forged instruments or perjured testimonies during trial is not an extrinsic fraud, because such evidence does not preclude the participation of any party in the proceedings. While a perjured testimony may prevent a fair and just determination of a case, it does not bar the adverse party from rebutting or opposing the use of such evidence.^[19] Furthermore, it should be stressed that extrinsic fraud pertains to an act committed *outside* of the trial.^[20] The alleged fraud in this case was perpetrated *during* the trial.

Besides, the failure of petitioner to present its case was caused by its own inaction. It was not impleaded as a party to the case before the trial court because it failed to effect the timely registration of its Deed of Sale. Had it done so, it would have been