

EIGHTH DIVISION

[CA-G.R. CV No. 100932, March 31, 2015]

**IN THE MATTER OF THE CANCELLATION OF ENCUMBRANCE ON
THE NEWLY ISSUED TCT NO. 267511 AND TCT NO. 267512 OF
THE REGISTRY OF DEEDS, MANILA**

**HEIRS OF JULITO B. PATIÑO REPRESENTED BY THEIR
ATTORNEY-IN-FACT, JOCELYN PATIÑO-ALSON PETITIONERS-
APPELLEES, VS. PHILIPPINE SAVINGS BANK AND REGISTER OF
DEEDS, MANILA, RESPONDENTS,**

PHILIPPINE SAVINGS BANK, RESPONDENT-APPELLANT.

D E C I S I O N

LANTION, J.A.C., J.:

This is an appeal from the *Decision*^[1] dated 25 March 2013 of the Regional Trial Court of Manila, National Capital Judicial Region, Branch 4,^[2] in LRC CAD. REC No. 278, the dispositive portion of which reads:

"WHEREFORE, the instant petition is hereby **GRANTED**. The Register of Deeds of Manila is hereby ordered, upon payment of the prescribed fees, to cancel Entry No. 4471/V-188?T-253545 and Entry No. 4471/V-188/T-253546 from Transfer Certificates of Title Nos. 267511 and 267512, provided that no document or transaction registered or pending registration in his office shall be adversely affected thereby.

Let a copy of this Decision be furnished the petitioners, Philippine Savings Bank, and their counsel for their information and guidance.

SO ORDERED."^[3]

THE FACTS (As culled from the Records)

On 28 April 2003, a certain Lolita Capistrano contracted a loan from Respondent-Appellant Philippine Savings Bank (**Appellant Bank**) in the amount of P1,200,000.00. The loan was secured by a *Real Estate Mortgage*^[4] over two (2) parcels of land (**subject properties**) covered by Transfer Certificate of Title (TCT) Nos. 253545 and 253546, registered under the name of Lolita Capistrano.^[5] The said Real Estate Mortgage was annotated as an encumbrance over the said TCTs.

On 28 May 2003, Petitioners-Appellees Heirs of Julito B. Patiño (**Appellees**) filed a *Complaint*^[6] against Lolita Capistrano for quieting of title and nullification of TCT Nos. 253545 and 253546 before the **RTC of Manila, Branch 39**. The *Complaint*

was docketed as **Civil Case No. 03106720**. In their *Complaint*, Appellees alleged that Lolita Capistrano acquired the subject properties through a “fake and spurious Deed of Donation” allegedly executed by their mother, Julito Patiño.^[7]

On 5 January 2005, the RTC of Manila, Branch 39 rendered a *Decision*^[8] in favor of the Appellees, reconveying to them the subject properties. On the basis that Lolita Capistrano acquired the subject properties through a fake and spurious Deed of Donation, the RTC of Manila, Branch 39 ordered for the nullification of TCT Nos. 253545 and 253546, and for the issuance of new titles (TCT Nos. 267511 and 267512) in Appellees' names.”^[9] However, the real mortgage encumbrance annotated at the back of the old titles (TCT Nos. 253545 and 253546) was carried over to the new titles (TCT Nos. 267511 and 267512) issued to the Appellees.

On 18 July 2005, Appellees filed a *Petition*^[10] before the RTC of Manila, Branch 4 (***court a quo***), to cancel the real mortgage encumbrance annotated in their new titles (TCT Nos. 267511 and 267512), arguing that:

“8. Inasmuch as the Heirs of Julito B. Patiño (Appellees herein), the owner of the lots covered by TCT No. 267511 and TCT No. 267512, did not have any participation or knowledge nor give their consent on the Mortgage, it is only but proper that the ENCUMBRANCE annotated on the said titles be canceled.”

After Appellees had complied with the jurisdictional requirements of publication of their *Petition*, the case was set for initial hearing on 10 August 2005.^[11] Appellant Bank received a copy of the said Notice on 29 July 2005^[12], however, it failed to appear at the hearing. Thus, Appellees were allowed to present their evidence *ex parte*.

On 8 September 2005, Appellant Bank filed a *Motion for Reconsideration*^[13] of the court a quo's 10 August 2005 Order which allowed Appellees to present their evidence *ex parte*. On the ground of substantial justice, the court a quo granted Appellant Bank's *Motion* and allowed it to present its evidence on 16 July 2008.^[14] However, Appellant Bank again failed to appear on the said date. Thus, the court a quo considered Appellant Bank to have waived its right to present evidence.^[15]

Appellant Bank again filed a *Motion for Reconsideration*^[16] of the court a quo's 16 July 2008 Order, praying that it be given another chance to present its evidence. On 4 November 2008, the court a quo granted Appellant Bank's second *Motion for Reconsideration*, setting the reception of its evidence on 26 November 2008.^[17] However, Appellant Bank still failed to attend the same. Hence, the court a quo in its Order^[18] dated 16 July 2009, declared that Appellant Bank had waived its right to present evidence and submitted Appellees' *Petition for Cancellation of Encumbrance for resolution*.

Appellant Bank filed another *Motion for Reconsideration*^[19] of the court a quo's 16 July 2009 Order asking that it be given another opportunity to present evidence, but the same was denied on 5 October 2009.^[20] Thereafter, Appellant Bank filed a Petition for Certiorari before this Court, docketed as CA-G.R. SP No. 112495, to set aside the 5 October 2009 Order of the court a quo. Finding the same to be without

merit, the *Petition for Certiorari* was dismissed by this Court on 23 August 2011.^[21]

After this Court resolved Appellant Bank's *Petition for Certiorari* in **CA-G.R. SP No. 112495**, the court *a quo* proceeded with the resolution of the *Petition for Cancellation of Encumbrance* filed by the Appellees. On the basis of the Decision rendered by the RTC of Manila, Branch 39, in Civil Case No. 03106720 (***Decision nullifying the old titles used in mortgaging the subject properties to Appellant Bank, and which ordered for the issuance of new titles under Appellees' name***) the court *a quo* rendered the assailed *Decision* in favor of the Appellees, canceling the mortgage encumbrance annotated to the new titles (TCT Nos. 267511 and 267512) issued to the Appellees, ratiocinating that:

"After taking into account all the foregoing facts and circumstances, the court finds the allegations of the petitioners (hereinafter Appellees) in support of the herein petition to be credible of belief. The petitioner has shown that the annotated encumbrance is no longer feasible nor applicable. The inaction of Philippine Savings Bank together with the evidence presented is sufficient cause to free the subject property from the imposed burden.

Indeed there is no dispute that in such a case the encumbrance will no longer serve the purpose to which it was annotated and as such is deemed "functus officio".^[22]

Thus, the present *Appeal*.

ISSUE

I

THE HONORABLE REGIONAL TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN IT RULED THAT THE REAL ESTATE MORTGAGE ANNOTATED ON TCT NOS. 267551 AND TCT NO. 267512 IN FAVOR OF PSBANK BE CANCELED AND REMOVED.

RULING

Appellant Bank contends as void the *Decision* of the court *a quo*, for being based **on the *Decision* rendered by RTC-Manila, Branch 39 in Civil Case No. 03106720**. Appellant Bank argues that as a mortgagee of the subject properties, it was an indispensable party in Civil Case No. 03106720; that since the proceedings in Civil Case No. 03106720 were concluded without its knowledge and participation, the ruling therein (***nullifying the old titles used in mortgaging the subject properties to Appellant Bank, and which ordered for the issuance of new titles under Appellees' name***) should be considered null and void.

The argument is untenable.

In this case, the judgment that Appellant Bank, in essence, assails is the *Decision* of the RTC of Manila, Branch 39 in Civil Case No. 03106720. Aside from the fact that the said *Decision* of the the RTC of Manila, Branch 39, in Civil Case No. 03106720 is not the subject matter of the present appeal, such judgment