

TENTH DIVISION

[CA-G.R. SP NO. 137393, March 31, 2015]

ANTONIO V. MARTEL, JR., PETITIONER, VS. REGIONAL TRIAL COURT OF LAS PIÑAS CITY, BRANCH 198, PILAR DEVELOPMENT CORP., PHILIPPINE CONCRETE HOMES, INC. AND APEX HOME DEVELOPERS, INC., RESPONDENTS.

D E C I S I O N

DIMAAMPAO, J.:

This *Petition for Certiorari*^[1] ascribes grave abuse of discretion on the part of public respondent Regional Trial Court of Las Piñas City, Branch 198, in Civil Case No. LP-02-0248, for issuing the *Orders*^[2] dated 16 April 2014 and 30 July 2014. The first *Order* denied the *Motion to Dismiss*^[3] of petitioner Antonio Martel's (petitioner) *Complaint for Quieting of Title*^[4] filed against him by private respondents Pilar Development Corp. (Pilar), Philippine Concrete Homes, Inc. (Concrete) and Apex Home Developers, Inc. (Apex) (collectively referred to as private respondents), while the second *Order* denied for lack of merit petitioner's *Motion for Reconsideration*^[5] thereof.

This case has its genesis in a *Complaint for Quieting of Title*^[6] filed by private respondents against petitioner way back 27 September 2002. Private respondents asseverated that they individually own several parcels of land located in *Barangay Almanza, Las Piñas* which form part of what is known as *Pilar Executive Village, Phase VI*, to wit:

For private respondent Pilar:

1. Transfer Certificate of Title (TCT) No. (63337) T-6364-A Registry of Deeds of Pasay City^[7]
2. TCT No. (63338) T-6365-A Registry of Deeds of Pasay City^[8]
3. TCT No. (S-70658) T-5758-A Registry of Deeds for Metro Manila Dist. IV^[9]
4. TCT No. (S-70662) T-5756-A Registry of Deeds for Metro Manila Dist. IV^[10]
5. TCT No. (S-70675) Registry of Deeds for Metro Manila Dist. IV^[11]
6. TCT No. S-70676 Registry of Deeds for Metro Manila Dist. IV^[12]
7. TCT No. S-70677 Registry of Deeds for Metro Manila Dist. IV^[13]

For private respondent Concrete:

1. TCT No. (80383) T-5341-A Registry of Deeds of Pasay City^[14]
2. TCT No. (80384) T-5342-A Registry of Deeds of Pasay City^[15]

4. TCT No. (80386) T-5344-A Registry of Deeds of Pasay City^[17]

For private respondent Apex:

1. TCT No. (82479) T-5268-A Registry of Deeds of Pasay City^[18]
2. TCT No. (82480) T-5269-A Registry of Deeds of Pasay City^[19]
3. TCT No. (82488) T-5277-A Registry of Deeds of Pasay City^[20]
4. TCT No. (82490) T-5279-A Registry of Deeds of Pasay City^[21]
5. TCT No. (82491) T- 5280-A Registry of Deeds of Pasay City^[22]
6. TCT No. (82492) T-5281-A Registry of Deeds of Pasay City^[23]

The aforementioned parcels of land are subdivided portions of Lot 1 plan Psu-94560 containing an area of 22,777 square meters. This Lot 1 plan Psu-94560 was originally registered in the name of Felicidad Raymundo, *et al.* under Original Certificate of Title No. 2116 pursuant to Decree No. N-73537 issued in Land Registration Case (LRC) No. N-1767, Record No. N-14712. Eventually, it was registered in the name of Hilario Celestino under TCT No. (131132) S-57486.

Likewise, private respondents averred that petitioner is the owner of a parcel of land described as Lot 1 (LRC) Psd-273596 situated in *Brgy. Almanza*, Las Piñas City, previously covered by TCT No. T-57471. This lot is contiguous to the aforesaid Lot 1, Psu-94560.

Subsequently, Lot 1 (LRC) Psd-273596 was subdivided into five lots designated as Lots 1-5 of the subdivision plan Psd-00-050376, resulting in the cancellation of TCT No. T-57471. As a result, five certificates of titles corresponding to each of the subdivided lots were issued, one of which is TCT No. 69569 covering Lot 2, Psd-00-050376, which has the following technical description, *viz*:

"A parcel of land (Lot 2, of the subd. Plan, Psd-00-050376, being a portion of land covered by T.C.T. No. 57471, L.R.C. Rec. No. 487), situated in the Brgy. of Almanza Uno, City of Las Piñas, Prov. of Metro Manila, Is. of Luzon. Bounded on the SW., along lines 1-2-3-4-5-6-7-8; on the NW., along lines 8-9-10-11-12-13-14-15-16-17-18-19, both by Lot 4 (Legal Easement) of the subd. plan; on the NE., along lines 19-20-21-22-23-24 by Gabriel Lozada (LRC) Pcs-20582; and on the SE., along lines 24-25-26 by Lot 2, (Now Psu-04-001387), along line 26-27 by Lot 3, along line 27-1 by Lot 1, both of the subd. plan. Beginning at a pt. marked "1" on plan, being S. 70 deg. 11'E., 4492.35 m. from BLLM No. 1, Mun. of Las Piñas, thence; N. 63 deg. 25'W., 48.97 m. to pt. 2; S. 89 deg. 42'W., 67.99 m. to pt. 3; S. 62 deg. 27'W., 45.34 m. to pt. 4; N. 62 deg. 28'W., 16.83 m. to pt. 5; N. 0 deg. 57'W., 15.71 m. to pt. 6; N. 29 deg. 48'W., 44.21 m. to pt. 7; x containing an are of SIXTY SIX THOUSAND THREE HUNDRED FORTY NINE (66,349) SQ. M., more or less x"[24]

Discernibly, petitioner's reliance on TCT No. 69569 is misplaced. The realty as described therein partially overlapped the following parcels of land:

1. TCT Nos. (S-70658) T-5758-A,
2. (S-70662) T-5756-A,

3. (80383) T-5341-A,
4. (80386) T-5344-A,
5. (82479) T-5268-A.

Moreover, it fully overlapped the parcels of land already covered by the following Transfer Certificates of Title:

1. TCT No. (63337)-6364-A,
2. (63338) T-6365-A,
3. (80384) T5342-A,
4. (80385) T- 5343-A,
5. (82480) T-5269-A,
6. (82488) T-5277-A,
7. (82490) T-5279-A,
8. (82491) T- 5280-A,
9. 82492) T-5281-A,
10. S-70675,
11. S-70676 and
12. S-70677.

From the foregoing, TCT No. 69569 is tainted with impropriety and should therefore be canceled as it casts cloud upon the validity of the aforementioned titles of private respondents.

Ensuingly, petitioner filed with Branch 200 of the RTC of Las Piñas a *Motion to Dismiss* the *Complaint* on the ground of *res judicata* and *litis pendentia*. Petitioner made capital of the pronouncements laid down in several cases wherein the RTCs, the Court of Appeals as well as the Supreme Court consistently upheld the validity of his title. Petitioner likewise avowed that on 15 July 1997, private respondent Pilar filed with the RTC, Branch 275 of Las Piñas City a *Complaint* docketed as Civil Case No. LP-97-0165, entitled, **Pilar Development Corporation v. Sps. Pepito L. Ng and Violeta N. Ng and Sps. Antonio Martel, Jr. and Juliana Ticson.**^[25] In the said case, Pilar prayed, inter alia, for the annulment of TCT No. 57471 from which TCT No. 69569 was derived. The RTC ruled in favor of petitioner. When the subject case docketed as CA-G.R. CV No. 60437 was appealed to Us, Our then First Division affirmed the RTC's *Decision*.^[26] This case was then pending before the Supreme Court.

In an *Order* dated 9 July 2003, the RTC, Branch 200 of Las Piñas City denied petitioner's *Motion to Dismiss*. Petitioner filed a *Motion for Reconsideration* thereof which was likewise denied, this time by public respondent,^[27] in an *Order* dated 2 April 2004.

Imputing grave abuse of discretion, petitioner assailed the aforesaid Orders of the RTC in a *Petition for Certiorari* docketed as CA-G.R. SP No. 83523. Still and all, Our then Third Division^[28] dismissed the *Petition* for being meritless.

Trial on the merits then proceeded before the public respondent. In the interregnum, on 28 August 2013, the Supreme Court rendered a *Decision*,^[29] in G.R. No. 155943, resolving the appeal filed by PDC of the *Decision* of Our then First Division in CA-G.R. CV No. 60437. G.R. No. 155943 affirmed the *Decision* in CA-G.R. CV No. 60437 which upheld the validity of TCT Nos. 61176 and 61177.

In light of this development, petitioner filed once more a *Motion to Dismiss*^[30] maintaining that the Complaint for Quieting of Title should be dismissed as the same is already barred by the 28 August 2013 Decision of the Supreme Court. Petitioner theorized that the alleged cloud cast on private respondents' titles by TCT No. 69569 which originated from TCT No. 61176^[31] no longer exists as the latter title was declared valid with finality by the Supreme Court in G.R. No. 155943.

In the first impugned *Order*, public respondent resolved to deny the *Motion to Dismiss* ratiocinating in this wise:

"After a careful perusal of the record of this case, the court resolves to DENY the motion to dismiss.

The doctrine of ***res judicata*** or bar by prior judgment applies when the judgment in a first case is final as to the claim or demand in controversy, between the parties and those privy with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which must have been offered for that purpose and all matters that could have been adjudged in that case.

The essential requisites for ***res judicata*** are: (1) the former judgment or order must be final; (2) it must be a judgment or order on the merits, that is, it was rendered after a consideration of the evidence or stipulations sub-mitted by the parties at the trial of the case; (3) it must have been rendered by a court having jurisdiction over the subject matter and the parties; and(,) (4) there must be, between the first and second actions, identity of parties, subject matter and causes of action.

The present case lacks the fourth requisite. It appears that the plaintiffs' cause of action involves quieting of title for the purpose of removing the cloud cast on the titles of their properties brought about by alleged overlapping with portions of the defendant's property. Thus, considering that the issue in G.R. No. 155943 was confined to the validity or nullity of TCT 61176 and 61177, and it did not include the question of overlapping of the properties of the parties, the principle of ***res judicata*** finds no application in this case.

In an action for quieting of title, the court is tasked to determine the respective rights of the complainant and the other claimants, not only to place things in their proper places, and make the claimant, who has no rights to said immovable, respect and not disturb the one so entitled, but also for the benefit of both, so that whoever has the right will see every cloud of doubt over the property dissipated, and he can thereafter fearlessly introduce any desired improve-ments, as well as use, and even abuse the property.

Anent the plaintiff's motion for the issuance of ***sub poena duces tecum/ad testificandum***, the defendant opposes the same on the ground that the production of the documents and testimony of witness would be tantamount to questioning the contents thereof and may be

deemed to be a collateral attack on the defendant's title. Moreover, the same is unprocedural as it is violative of Section 35 of the Rules.

The defendant's objection is unavailing. The court opines that the plaintiff's request is in accord with procedural rules, hence the court resolves to grant the same.” [32]

Unruffled, petitioner moved for a reconsideration anchored on the following issues:

“1. THE COMPLAINT IS ACTUALLY AN ACTION FOR THE NULLIFICATION OF DEFENDANT'S PREVIOUSLY AD-JUDGED VALID TITLE DISGUISED AS AN ACTION FOR 'QUIETING OF TITLE' AND A CLAIM FOR 'OVER-LAPPING'”[33]

2. PLAINTIFFS' SOUGHT FOR TESTIMONY THRU A *SUBPOENA DUCES TECUM /AD TESTIFICANDUM* CONS-TITUTES A COLLATERAL ATTACK”[34]

Still and all, public respondent denied the *Motion* in the second assailed *Order* for being devoid of merit.

Perforce, petitioner comes to Us *via* this *Petition*, propounding this solitary issue—

WHETHER OR NOT THE PUBLIC RESPONDENT RE-GIONAL TRIAL COURT OF LAS PIÑAS, BRANCH 198 HAS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNT-ING TO LACK OR IN EXCESS OF JURISDICTION IN UTTER CONTRAVENTION OF LAW AND JURISPRUDENCE BY DENYING PETITIONER'S MOTION TO DISMISS IN ITS ORDER DATED 16 APRIL 2014 AND DENYING AS WELL PETITIONER'S MOTION FOR RECONSIDERATION IN ITS ORDER DATED 30 JULY 2014 BOTH MOTIONS HAVING BEEN GROUNDED ON *RES JUDICATA* AND COLLATERAL ATTACK OF PETITIONER'S TRANSFER CERTIFICATE OF TITLE NO. 69569.

At the onset, it bears stressing that an order denying a motion to dismiss is an interlocutory order which neither terminates nor finally disposes of a case as it leaves something to be done by the court before the case is finally decided on the merits. Thus, as a general rule, the denial of a motion to dismiss cannot be questioned in a special civil action for certiorari which is a remedy designed to correct errors of jurisdiction and not errors of judgment. However, when the denial of the motion to dismiss is tainted with grave abuse of discretion, the grant of the extraordinary remedy of certiorari may be justified. By grave abuse of discretion is meant such capricious and whimsical exercise of judgment that is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.[35]

Did public respondent commit grave abuse in issuing the challenged *Orders* to warrant the issuance of the writ of *certiorari*?