

## **TWENTY-SECOND DIVISION**

**[ CA-G.R. CV NO. 02751-MIN, March 07, 2014 ]**

**PEDRITO M. SUMAYLO, PETITIONER-APPELLANT, VS. SPS.  
EMELIANO SABELLON, JR. & EVELYN SABELLON AND THE  
REGISTER OF DEEDS OF ILIGAN CITY, RESPONDENTS-  
APPELLEES.**

### **D E C I S I O N**

**CAMELLO, J.:**

Petitioner-appellant Pedrito Sumaylo brings this appeal to assail the Order dated 2 September 2011 of the Regional Trial Court, Branch 5,<sup>[1]</sup> Iligan City, in Civil Case No. 7178, which dismissed his petition for quieting of title.

Briefly, the following are the pertinent facts.

On July 4, 2008, petitioner-appellant Pedrito M. Sumaylo filed a Petition for "Quieting of Title and the Removal of Clouds Therefrom with Preliminary Injunction, Reconveyance and Damages" against respondents-appellees Spouses Emeliano Sabellon, Jr. and Evelyn Sabellon. The case was docketed as Civil Case No. 7178.

Sumaylo alleged that he was the son and one of the heirs of Illuminada vda de Sumaylo who died on 19 January 1992. Allegedly, after the death of his father Constancio Sumaylo in 1971, Illuminada took possession of Lot No. 5258 containing an area of 1.7597 hectares at Tangke (Townsite), Suarez, Iligan City. As an original claimant of this lot, she was issued Tax Declaration No. 30201 on 27 July 1972.<sup>[2]</sup>

In 1984, the National Housing Authority (NHA) expropriated several parcels of privately owned lands in Suarez, Iligan City for its National Housing Project. Among those was Lot No. 5258, which upon survey by the NHA, actually contained 18,751 square meters. Consequently, Illuminada was made to execute a Deed of Absolute Quitclaim on 9 April 1984, waiving her rights over Lot No. 5258 in favor of NHA. As part of the consideration, she retained ten (10) residential lots, with an area of 300 square meters each, which were awarded to each of her children, one of whom is petitioner Sumaylo. In a certification dated 13 May 2002, Sumaylo's 300 square meter lot was designated as Subdivision Lot 1 of Lot 5258 and denominated as UDHO Lot No. 6, Block No. 4. Likewise, for tax purposes, he was issued Tax Declaration No. 02-036-01824 over the subject<sup>[3]</sup>

In his petition, Sumaylo enumerated four causes of action against the Spouses Sabellon. His first and second causes of action are removal of a cloud and quieting of title over the property in question. He alleged that on 2 March 1994, the RTC, Branch 3, Lanao del Norte rendered a Decision<sup>[4]</sup> in Civil Case No. 2360<sup>[5]</sup> in favor of Spouses Sabellon and against two of his siblings together with their spouses, namely: Arturo Sumaylo, Josita Sumaylo, Alfredo Sanchez and Carmen Sanchez. This Decision, which allegedly became final and executory on 30 April 1998,

declared the Spouses Sabellon as the owners of a 600 square meter residential lot, situated at Camp Overton Residential Site, Suarez, Iligan City and covered by Tax Declaration No. 85-1982. In that suit, the Spouses Sabellon alleged that on 7 July 1979, they purchased the subject lot from Spouses Michael Bendebel and Guillerma Ariate, who in turn, purchased from petitioner's father, Constancio on 5 June 1967.

In 2001, Spouses Sabellon also filed an ejectment case against petitioner Sumaylo before the Municipal Trial Court in Cities (MTCC), Branch 2, Iligan City, docketed as Civil Case No. (1127-AF) II-1506, claiming that the 600 square meter lot which they purchased from Spouses Bendebel covers the property which was in the possession of Sumaylo. The Spouses Sabellon presented Tax Declaration No. 94-17235 to support their claim. It was during this time that Sumaylo became aware that the Sabellon spouses were claiming his lot as part of their purchased lot. Sumaylo insisted that the lot sold by Constancio in 1967 is a different lot, separate and distinct from Lot No. 5258, which was acquired by Illuminada long after the death of Constancio. Thus, to remove this cloud over his claim of ownership over the subject property, petitioner-appellant filed the instant action for quieting of title.

As their affirmative defense, the Spouses Sabellon assert *res judicata* and allege that the ownership of the lot in question has already been resolved in Civil Cases Nos. 2360 and 7019.<sup>[6]</sup>

In the assailed Order<sup>[7]</sup> dated 2 September 2011, the trial court dismissed the petition and disposed the case as follows:

WHEREFORE, premises considered, the Court finds that this case falls within the exclusive original jurisdiction of the Court of Appeals. This case is DISMISSED for lack of jurisdiction.

SO ORDERED.

Aggrieved, petitioner-appellant interposed the instant appeal with the following assignment of errors:

THE HONORABLE TRIAL COURT ERRED IN DISMISSING THE PETITION FOR LACK OF JURISDICTION.

THE HONORABLE TRIAL COURT ERRED WHEN THE SAME DENIED PETITIONER/APPELLANT DUE PROCESS WHEN SAID COURT A QUO OPINED THAT THE PLAINTIFF IS ASKING THE SAID COURT A QUO TO RENDER JUDGMENT THAT WILL CONTRADICT, PARTIALLY, THE DECISION IN CIVIL CASE NO. 2360.

The appeal is impressed with merit.

As to the issue of *res judicata*, the trial court ruled that the decision in Civil Case No. 2360 was not binding on the siblings and co-owners who were not impleaded as parties defendant. Hence, it concluded that the instant case is not barred by *res judicata*. The trial court was correct in so ruling.

However, the trial court still dismissed the case, but on another ground. The trial court opined that since there was already a decision in Civil Case No. 2360, which covered the same property, the present action would in effect ask the court to render judgment that would contradict and cancel partially the decision in Civil Case

No. 2360. As such, the proper action should have been a petition to annul judgment before the Court of Appeals. The trial court ratiocinated in this wise:

Careful scrutiny, however, revealed another issue that simply cannot be ignored which this Court may take cognizance *motu proprio* – jurisdiction. In the case at bar, there is no doubt that the plaintiff Pedrito Sumaylo is asserting ownership over a 300 square meter portion of the disputed property, hence his prayer for quieting of title, removal of clouds and reconveyance, among others. It is also unquestionable that in Civil Case No. 2360 ownership of the same property was disputed, as proclaimed in the opening paragraph of the Decision thereof, to quote: “This is a complaint for recovery of ownership and possession of a 600 square meter parcel of residential lot situated at Suarez, Iligan City.” In effect, the plaintiff Pedrito Sumaylo is asking this Court to render judgment that will contradict and cancel, partially, the Decision in Civil Case No. 2360 where Branch 3 of this Court ruled in favor of the Spouse Sabellon declaring them “the owners and possessors of the lot in question.” Certainly, this Court has no jurisdiction over this case because under Sec. 9 of B.P. Blg. 129, the Court of Appeals exercises exclusive original jurisdiction over actions for the annulment of judgments of the Regional Trial Courts. Further, it is settled ruled that a court of concurrent or equal jurisdiction cannot open, modify or vacate the judgment of another court as such power is restricted to the court which rendered the judgment (citation omitted) and neither can another branch of the same court do so (citation omitted).

In passing upon the legal soundness of the quoted ruling, the proper perspective must be put in place. It should be clearly appreciated that the trial court made the ruling in 2011, when case law on the matter of who may file a petition for annulment of judgment under Rule 47 of the Rules of Court was still in a rather tentative or fluctuating state. During that time, jurisprudence was unclear in regard to whether non-parties may bring the action under Rule 47. As will be discussed presently, it is now settled that Rule 47 petitions are, as a rule, only for parties in the proceedings below.

Having said that, we are now constrained to rule for petitioner in keeping with the principle of *stare decisis*.

A petition for annulment of judgment under Rule 47 of the Rules of Court is a remedy in equity and is exceptional in nature. As such, it may be taken only when other remedies are wanting,<sup>[8]</sup> and only if the judgment, final order or final resolution sought to be annulled was rendered by a court lacking jurisdiction or through extrinsic fraud.<sup>[9]</sup> Being exceptional in character, this remedy is not allowed to be readily abused by parties aggrieved by the final judgments, orders or resolutions. Thus, the High Court has instituted safeguards by limiting the grounds for annulment to lack of jurisdiction and extrinsic fraud, and by prescribing that petitioner should show that the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. A petition for annulment that ignores or disregards any of the safeguards cannot prosper.<sup>[10]</sup>