

THIRTEENTH DIVISION

[CA-G.R. CV No. 101145, November 21, 2014]

**IN THE MATTER OF: ANNULMENT OF TRANSFER CERTIFICATES
OF TITLE NOS. M-9876, M-9877, M-29530, M-9874, LOCATED IN
BO. TUGATOG AND TENEJEROS, MALABON, METRO MANILA, AND
ANY AND/OR DERIVATIVE TITLES THERETO**

**LEOPOLDO A. VENTURA, PETITIONER-APPELLANT, VS. LAND
REGISTRATION AUTHORITY, MALABON-NAVOTAS CITY
REGISTRY OF DEEDS, SPS. ROSAURO A. VILLANUEVA AND
AMELITA V. VILLANUEVA, SPS. FERNANDO A. LIM AND
SOFRONIA B. LIM, & SPS. ALBERTO C. SEVILLA AND MYRA V.
SEVILLA, RESPONDENTS-APPELLEES.**

D E C I S I O N

DIAMANTE, J.:

From the Orders^[1] rendered by the Malabon City Regional Trial Court (RTC) – Branch 74 dated September 12, 2012 and May 14, 2013, in Civil Case No. 664-MN, petitioner-appellant interposed the instant appeal and assigned the following errors:
^[2]

"I. The Trial Court gravely erred when it did not declare the TCT No. [M-] 9876, TCT No. M-9877, TCT N[o]. M-29530, (sic) and TCT No. M-9874 issued and registered under [the] names of the Respondents-Appellees spurious and null and void for having (sic) secured through fraud.

II. The [T]rial Court gravely erred when it did not revert the TCT No. [M-] 9876, TCT No. M-9877, TCT No. M-29530, (sic) and TCT No. M-9874 to the original owner Lilia D. Sevilla.

III. The Trial Court gravely erred when it ruled that Petitioner and his Principal do not have a right over the subject property.

IV. The Trial Court gravely erred when it concluded that Respondents were buyer in good faith[;] that they were first registrant (sic) in good faith.

V. The Trial Court [g]ravely erred when it dismissed the case without a full blown trial to give the Petitioner a day in court to establish his right.

VI. The Trial Court gravely erred when it did not exercise restraint in allowing the [m]otion to dismiss considering the evidence of the Appellant.

VII. The Trial Court gravely erred when it considered the case as a Civil Case rather than a special proceeding, a process to establish a fact."

The records bore the following:

In a petition^[3] filed before the RTC, herein appellant claimed that he is the Attorney-In-Fact of one Lilia D. Sevilla, the owner/vendee of the Maysilo Estate covered by Original Certificate of Title (OCT) No. 994 from which the properties of herein private respondents-appellees were derived. In support of his claim, appellant attached a copy of the Deed of Absolute Sale entered into by Lilia D. Sevilla with the registered owners of OCT No. 994.

According to appellant, Lilia D. Sevilla never sold, assigned, mortgaged or in any other manner encumbered or conveyed the subject properties to herein private respondents-appellees or their predecessor-in-interest prompting him to investigate the authenticity of the titles of private respondents-appellees.

Appellant averred that the cited subdivision plan, specifically Psd No. 3355, Rec. No. 4429, is located in Cebu City and said plan is in the custody of DENR-Region VII in Banilad, Mandaue City.^[4] Moreover, the subject properties which can be traced to a certain Transfer Certificate of Title (TCT) No. 45609/T-234, could not be located by public respondent Malabon-Navotas Registry of Deeds.^[5] Further, the certificate of title could not be found in the Land Registration Authority's microfilm records.^[6] Thus, appellant posited that the certificates of title namely TCT Nos. M-9876, M-29530 (traced back to M-9875) and M-9874 located in Bo. Tugatog and Tenejeros, Malabon City are spurious and fake, giving the registered owners thereof no rights whatsoever.

In view of the foregoing, appellant prayed that the aforecited certificates of title be canceled and declared null and void and be reverted back to OCT No. 994.

In their Motion to Dismiss,^[7] private respondents-appellees Spouses Fernando A. Lim and Sofronia B. Lim moved for the dismissal of the petition on the ground that appellant has no legal capacity to sue and that the pleading asserting the claim states no cause of action. They claimed that they are the registered owners of the parcel of land with improvements covered and described under TCT No. M-29530 having purchased the same from UCPB Savings Bank on August 11, 2003.^[8] The said property was acquired by UCPB Savings Bank through an Extra-judicial Foreclosure Sale when the Spouses Carole and Rolando Villanueva failed to pay their mortgage obligations to the bank.^[9] The Spouses asseverated that, if indeed, Lilia D. Sevilla has a right over the subject properties, she should have filed an opposition to the extra-judicial proceedings involving TCT No. M-9875 (now, TCT No. M-29530), considering that the same was published in newspapers of general circulation.

On the other hand, private respondents-appellees Spouses Rosauro and Amelita Villanueva (Spouses Villanueva) and Myra Sevilla (Sevilla) filed an Answer (with Compulsory Counterclaim)^[10] to appellant's petition.

In their Answer, the Spouses Villanueva and Sevilla pointed out that appellant made much ado about Subdivision Plan No. Psd-3355 being a parcel of land located in Cebu City. However, appellees argued that what is controlling is the actual Subdivision Plan No. Psd-13-003944^[11] which covers the parcels of land described in the TCTs in question.^[12] Appellees asserted that Psd-13-003944 contains the metes and bounds of the parcels of land which are all located in the City of Malabon. Otherwise stated, what were described in their titles are parcels of land located in Malabon and not in Cebu City.

Moreover, appellees Spouses Villanueva and Sevilla maintained that Lilia Sevilla has no cause of action to have their titles canceled and the ownership of the properties reverted back to her as the latter is the same person who was the defendant in a civil case that was tried before the Kalookan City RTC, Branch 122. In the said case, the trial court found that the alleged OCT No. 994 registered on April 19, 1917 from which Lilia D. Sevilla derived her title, was void or non-existent. The same Deed of Absolute Sale on which herein appellant banks legal claims had already been found by the aforesaid court to be, likewise, void and could not have been legally registered. Meanwhile, appellees claimed that they never dealt with Lilia Sevilla and that their titles were derived from TCT No. 45609/T234, which can be traced to OCT No. 994 which was registered on May 3, 1917 and was held to be the valid one.

On the 12th of September 2012, the Malabon City RTC, Branch 74 rendered the assailed Order the *falla* of which reads:

"WHEREFORE, the motion to dismiss is **GRANTED**. This case is hereby **DISMISSED** for lack of cause of action.

SO ORDERED."

Appellant filed a Motion for Reconsideration from the aforequoted Order but it was denied by the court a *quo* in an Order^[13] dated May 14, 2013.

Hence, the present recourse.

On February 5, 2014, Spouses Rosauo and Amelita Villanueva and Myra Sevilla filed their appellees' Brief.^[14] On the other hand, after several requests for extension of time, Spouses Fernando A. Lim and Sofronia B. Lim filed their Appellees' Reply-Brief.^[15]

In a Minute Resolution^[16] dated July 9, 2014, this Court *inter alia* required the counsel for respondents-appellees Spouses Fernando and Sofronia Lim to submit proof showing the exact date of receipt by petitioner-appellant's counsel of the copy of the Appellees' Brief within ten (10) days from notice.

On July 12, 2014, counsel for respondents-appellees Spouses Fernando and Sofronia Lim filed a Compliance to the July 9, 2014 directive of this Court.

On September 11, 2014, the Judicial Records Division issued a verification report