

FOURTH DIVISION

[CA-G.R. SP No. 132733, November 21, 2014]

LEANDRO N. DE LEON, CORAZON L. BODESTYNE, RAMON DE LEON AND EVELYN DELIMA-BRAVO, PETITIONERS, VS. HON. EULALIO C. DIAZ, III, IN HIS CAPACITY AS ADMINISTRATOR OF THE LAND REGISTRATION AUTHORITY, QUEZON CITY AND ATTY. TERESITA FELIPE-MONTEMAYOR, IN HER OFFICIAL CAPACITY AS OFFICER-IN-CHARGE OF THE REGISTER OF DEEDS OF MAKATI CITY, AND PEDRO N. SEGOVIA, FLEUER DELIZ SEGOVIA REMO, ROLANDO SEGOVIA, ROGELIO SEGOVIA AND PARALUMAN S. SAJUELA, AS SURVIVING HEIRS OF THE LATE REGINA NIEBRES SEGOVIA, RESPONDENTS.

D E C I S I O N

GONZALES-SISON, M., J.:

By Petition for Review under Rule 43 of the Rules of Court, petitioners Leon N. De Leon, Corazon L. Bodestyne, Ramon De Leon, and Evelyn Delima-Bravo seek to appeal the 10 April 2012 Resolution of the Land Registration Authority denying the annotation of the adverse claim of the petitioners on TCT No. (13375) S-27924 as well as the 30 September 2013 Order denying their Motion for Reconsideration.

The facts of the case, as found by the public respondent, are as follows:

"Regina Niebres owns a parcel of land covered by TCT No. (13375) S-27924 located in Makati City, with an area of 265 square meters. On July 3, 1950, Regina executed a Deed of Absolute Sale in favor of Maria Niebres covering an area of 165 square meters out of the 265 square meters of the subject TCT No. 13375. This sale has been annotated on the title under Entry No. 25664/T-No. 13375.

On April 28, 1996, RTC Branch 62 of Makati City rendered a Decision in Civil Case No. 91-2301 entitled "Regina Niebres Segovia versus Leandro De Leon, et. al." declaring the Deed of Absolute Sale dated July 3, 1950 void ab initio and ordering the Register of Deeds of Makati City to cancel the inscription of the said sale in the memorandum of encumbrances found at the dorsal portion of TCT No. (13375) S-27924. In compliance (with the Decision), the Register of Deeds on July 29, 2008 cancelled Entry No. 25664/13375 under Entry No. 85529/13375.

On December 10, 2008, petitioners as heirs of the late Maria Niebres filed "Joint Affidavit of Adverse Claim"contending that the final and executory Decision dated April 18, 1996 had already prescribed under the law, the cancellation of Entry No. 25664/13375 was attended with grave procedural irregularities tantamount to a denial of due process and

considering that they have long been occupants of the subject parcel of land, and are the heirs of the late co-owner Maria Niebres, they have a vested interest in the property which they are to protect.

The Register of Deeds however denied registration of the adverse claim on the ground that "The right of an heir or co-heir cannot be the subject of an adverse claim."

On 10 April 2012, the Land Registration Authority issued the impugned Resolution^[1] the dispositive portion of which states, thus –

*"**WHEREFORE,** premises considered, this Authority is of the opinion that the request of the petitioners to annotate the adverse claim on TCT No. (13375) S-27924 may not be favorably acted upon.*

***SO ORDERED.*"**^[2]

Petitioners filed a Motion for Reconsideration but the same was denied in an Order dated 30 September 2013.

Hence, this appeal under Rule 43 of the Rules of Court with the lone issue for the resolution of this Court, to wit:

THE LAND REGISTRATION AUTHORITY COMMITTED REVERSIBLE ERROR IN DENYING PETITIONERS' MOTION FOR RECONSIDERATION DATED 24 APRIL 2012 NOTWITHSTANDING THE FACT THAT THE PRIMARY ISSUE IN THE APPEAL EN CONSULTA REFERS TO CANCELLATION OF ENTRY NO. 25664/13375 ON TRANSFER OF CERTIFICATE OF TITLE NO. (13375) S-27924 IN PURSUANT TO A DECISION RENDERED BY THE REGIONAL TRIAL COURT OF MAKATI CITY, BRANCH 62 DATED APRIL 18, 1996 WHICH HAS ALREADY PRESCRIBED AND THEREFORE HAS NO FORCE AND EFFECT AND AS SUCH, UNENFORCEABLE.

Petitioners insist that the basis for the cancellation of Entry No. 25664/13375 which was the Decision of the Regional Trial Court of Makati City, has already prescribed and could no longer be enforced. Moreover, the cancellation of Entry No. 25664/13375 was not made under a Writ of Execution nor was it made through a Sheriff as the proper officer of the court.

On the other hand, private respondents maintain that the public respondent did not commit any reversible error and prays that the instant petition be dismissed for utter lack of merit.

The Petition is unmeritorious.

Petitioners proffer that the cancellation of Entry No. 25664/13375 is annotated at the back of TCT No. (13375) S-27924 as follows:

"Entry No. 85529/13375 – Decision

By virtue of the DECISION of the court, RTC Makati, Branch 62 under Civil Case No. 91-23101, the Absolute Sale annotated under Entry No. 25664/13375 is hereby cancelled. So Ordered by Judge Roberto C. Diokno.

Date of instrument - 18 April 1996

Date of inscription - 29 July 2008.

Petitioners conclude that it violates the rule that a Decision is enforceable under and within five (5) years from the date of entry of finality of judgment by Motion for Issuance of Writ of Execution or after five (5) years but within ten (10) years from the date of entry or finality of decision by a petition/complaint for revival of judgment.^[3]

Furthermore, they contend that it is in violation of Article 1144 of the Civil Code which provides that actions must be brought within 10 years from the time the right of action accrues.

Hence, petitioners argue, the cancellation of entry had lost its validity and efficacy and should therefore be declared null and void.

Petitioners' arguments deserve scant consideration.

In the case of ***Spouses Paredes v. CA***,^[4] the Supreme Court explained, thus:

*"In a later case [Sta. Ana v. Menla, 111 Phil. 947 (1961)], the Court also ruled that the provision in the Rules of Court to the effect that judgment may be enforced within five years by motion, and after five years but within ten years by an action (Section 6, Rule 39) **refers to civil actions and is not applicable to special proceedings, such as land registration cases.** The Court said:*

"The second assignment of error is as follows:

'That the lower court erred in ordering that the decision rendered in this land registration case on November 28, 1931 or twenty six years ago, has not yet become final and unenforceable.

We fail to understand the arguments of the appellant in support of the above assignment, except in so far as it supports his theory that after a decision in a land registration case has become final, it may not be enforced after the lapse of a period of 10 years, except by another proceeding to enforce the judgment or decision. Authority for this theory