



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

ERNESTO OPPEN, INC.,
 Petitioner,

G.R. No. 203969

Present:

- versus -

LEONARDO-DE CASTRO, * J.,
 BRION, *Acting Chairperson*, **
 VILLARAMA, JR., ***
 MENDOZA, and
 LEONEN, JJ.

ALBERTO COMPAS, substituted
 by his heirs namely, Clifford M.
 Compas and Joan M. Compas,
 and **PHILIPPINE MERCHANT**
MARINE SCHOOL, INC.,
 Respondents.

Promulgated:

OCT 21 2015

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D E C I S I O N

MENDOZA, J.:

This is a petition for review on *certiorari* seeking to reverse and set aside the June 29, 2012 Decision¹ and the October 1, 2012 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 119308, which denied the petition for *certiorari* of petitioner Ernesto Oppen, Inc. (EOI), assailing the October 7, 2010³ and March 4, 2011⁴ Orders of the Regional Trial Court (RTC), Branch 275, Las Piñas City (RTC- Las Piñas), in LRC Case No. LP-05-0089. The October 7, 2010 Order denied the second motion to dismiss filed by EOI, questioning the court's jurisdiction, while the March 4, 2011 Order denied its motion for reconsideration.

* Per Special Order No. 2250, dated October 14, 2015.

** Per Special Order No. 2222, dated September 29, 2015.

*** Per Special Order No. 2223-C, dated September 29, 2015.

¹ Penned by Associate Justice Mario v. Lopez with Associate Justice Fernanda Lampas Peralta and Associate Justice Socorro B. Inting, concurring; *rollo*, pp.31-41.

² Id. at 42.

³ Penned by Presiding Judge Bonifacio Sanz Maceda; *CA rollo*, pp. 28-29.

⁴ Id. at 30.

The subject matter of the present case involves two (2) parcels of land, each with an area of 11, 452 square meters, located in Las Piñas City, covered by Transfer Certificate of Title (*TCT*) No. S-100612⁵ and TCT No. S-100613,⁶ and previously registered in the name of Philippine Merchant Marine School Inc. (*PMMSI*).

On May 21, 1984, the said properties were levied upon pursuant to the decision rendered, and the writ of execution issued, by the Metropolitan Trial Court, Branch 7, Manila (*MeTC-Branch 7*) in Civil Case No. 098646-CV.⁷ The *MeTC-Branch 7* decision⁸ approved the compromise agreement between Manufacturers Building, Inc. (*MBI*) and *PMMSI*. Thereafter, the Notice of Levy in favor of *MBI* was annotated at the back of TCT Nos. S-100612 and S-100613 on August 22, 1986.⁹

On August 10, 1987, pursuant to the writ of execution issued by the *MeTC*, Branch 16, Manila (*MeTC-Branch 16*), in Civil Case No. 116548, *EOI* annotated its lien on TCT No. S-100162. A certificate of sale was issued in its favor on October 19, 1987, and entered on TCT No. S-100612 on August 24, 1989. The said property was later sold in a public auction where *EOI* was the highest bidder and the Final Deed of Sale, dated September 28, 1990, was issued after the lapse of the redemption period. Subsequently, *EOI* filed for the cancellation of *PMMSI*'s title and the issuance of a new one under *EOI*'s name. Pursuant to a writ of execution, dated December 9, 2003, TCT No. 95712 in the name of *EOI*, was issued cancelling on March 18, 2004 TCT No. S-100612.¹⁰

Meanwhile, on September 2, 2002, an alias writ of execution¹¹ was issued by *MeTC- Branch 7* in connection with the case between *PMMSI* and *MBI*. On November 8, 2002, the properties covered by TCT Nos. S-100612 and S-100613 were sold in a public auction in which respondent Alberto Compas (*Compas*) was the winning bidder and had the sale annotated on both titles on November 11, 2002. The Final Deed of Sale¹² was issued to *Compas* after *PMMSI* failed to redeem the said properties during the redemption period which expired on November 11, 2003.

⁵ *Rollo*, pp. 84-87.

⁶ *Id.* at 88-92.

⁷ *Id.* 75.

⁸ *Id.* at 93-95.

⁹ *Id.* at 75.

¹⁰ *Id.* at 32.

¹¹ *Id.* at 96.

¹² *Id.* at 120-121.

LRC Case No. LP-05-0089

On September 28, 2005, Compas filed a petition for the cancellation of TCT Nos. S-100612 and S-100613 and for the issuance of new titles in his name before RTC-Las Piñas, which was docketed as LRC Case No. LP-05-0089. Upon learning that TCT No. S-100162 had been cancelled and TCT No. T-95712 had been issued in its place under EOI's name, Compas filed his Motion to Admit Amended Petition,¹³ dated March 3, 2008.

EOI filed two motions to dismiss the Amended Petition of Compas.¹⁴ On July 15, 2009, the first motion to dismiss was filed on the ground of failure to state a cause of action.¹⁵ It was denied by RTC-Las Piñas on the ground that Compas could rightfully enforce its lien on the property under EOI's name.¹⁶

On May 21, 2010, EOI filed a second motion to dismiss arguing that under Section 108 of Presidential Decree (*P.D.*) No. 1529, or the Property Registration Decree, the court with jurisdiction was the court where the original registration was filed and docketed.¹⁷ Hence, the case should have been filed with the court which heard the proceedings for original registration docketed as LRC No. N-1238.

The RTC Order

On October 7, 2010, the RTC-Las Piñas issued an order denying EOI's second motion to dismiss on the ground that Section 108 of P.D. No. 1529 was inapplicable and that it was vested with jurisdiction under Section 2 thereof.

EOI sought the reconsideration¹⁸ of the October 7, 2010 Order of the RTC-Las Piñas denying its second motion to dismiss, but said court denied the motion in its Order, dated March 4, 2011.

Aggrieved, EOI filed a petition for *certiorari*¹⁹ with the CA alleging grave abuse of discretion on the part of RTC-Las Piñas for denying its second motion to dismiss and its motion for reconsideration filed in relation thereto.

¹³ Id at 70-72.

¹⁴ CA *rollo*, pp. 70-80.

¹⁵ *Rollo*, pp. 14-15.

¹⁶ Id.

¹⁷ Id. at 208.

¹⁸ Id. at 236-241.

¹⁹ Id. at 255-277.

The CA Ruling

On June 29, 2012, the CA rendered the questioned decision sustaining the jurisdiction of RTC-Las Piñas over the amended petition. The CA stated that Section 2 of P.D. No. 1529 was the applicable provision in determining whether the RTC had jurisdiction. It explained that Section 108 of P.D. No. 1529 was inapplicable because the proceedings contemplated therein were summary in nature and relief under the said provision could be granted only when there was unanimity among the parties. The CA noted that the present case raised a controversial issue because Compas assailed the title issued to EOI.

EOI moved for reconsideration, but its motion was denied by the CA in its assailed resolution, dated October 1, 2012.

Hence, this present petition, raising the following

ISSUE

THE COURT OF APPEALS ERRED IN AFFIRMING THE LOWER COURT'S DECISION OF DENYING THE MOTION TO DISMISS OF THE AMENDED PETITION DATED MARCH 3, 2008 CONSIDERING THAT:

- A. AMENDED PETITION STATED NO CAUSE OF ACTION**
- B. LOWER COURT HAS NO JURISDICTION OVER THE SUBJECT MATTER OF THE CLAIM**

The principal issue in this case is whether the RTC has jurisdiction to hear the amended petition of EOI.

Petitioner EOI contends that, by virtue of Section 108 of P.D. No. 1529, it is the court where the original registration was filed and issued which has jurisdiction over the petition because it is a petition after the original registration. Thus, the amended petition of Compas should have been filed with the court which heard the proceedings for original registration docketed as LRC No. N-1238.

In its Comment,²⁰ PMMSI claimed that Section 2, and not Section 108, of P.D. No. 1529 was applicable because the latter only applied in cases of erasure, amendment or alteration in the title certificates and not in cases which involved complex issues. It pointed out that the procedure laid out in Section 108 was summary in nature and the present case could not be resolved in a mere summary proceeding as the parties had contending claims of ownership.

In his own Comment,²¹ Compas stressed that EOI, being a junior encumbrancer, faced the risk of its right being nullified by a superior encumbrancer. It was for this reason that a new title must be issued in his name as all subsequent encumbrance must yield to his lien.

In its Reply²² to PMMSI's comment, EOI contended that the CA failed to appreciate that Compas, as he claimed his right as a holder of superior lien, sought the cancellation of its title and the issuance of a new title in his name, pursuant to the Final Deed of Sale, dated November 17, 2003. Consequently, he was praying for the amendment of the certificates of title under Section 108 of P.D. No. 1529.

In its Reply²³ to Compas' comment, EOI countered that the Register of Deeds of Las Piñas could not be compelled to cancel EOI's title and issue a new one in his name. It argued that, under Section 59 of P.D. No. 1529, existing encumbrances and annotations appearing in the registration book at the time of transfer of property shall be carried over and stated in the new certificate of title. EOI agreed that Compas' lien was rightfully annotated in its title but the latter could no longer have the title cancelled and a new one issued in his name on the ground that its title became indefeasible and incontrovertible after the lapse of one year from its final decree. Considering that TCT No. T-95712 was issued on March 18, 2004, Compas only had until March 18, 2005 to question its validity. EOI stressed that Compas belatedly exercised his rights as the amended petition was filed only on March 3, 2008.

The Court's Ruling

It is basic in law that the jurisdiction of courts is conferred by law.²⁴ The jurisdiction of regional trial courts in land registration cases is conferred by Section 2 of P.D. No. 1529. It expressly provides:

²⁰ Id. at 371-380.

²¹ Id. at 411-421.

²² Id. at 382-388.

²³ Id. at 435-440.

²⁴ *Department of Agrarian Reform v. Cuenca*, 482 Phil. 208, 216 (2004).

Section 2. Nature of registration proceedings; jurisdiction of courts. Judicial proceedings for the registration of lands throughout the Philippines shall be in rem and shall be based on the generally accepted principles underlying the Torrens system.

Courts of First Instance shall have exclusive jurisdiction over all applications for original registration of title to lands, including improvements and interests therein, and over **all petitions filed after original registration of title**, with power to hear and determine all questions arising upon such applications or petitions. The court through its clerk of court shall furnish the Land Registration Commission with two certified copies of all pleadings, exhibits, orders, and decisions filed or issued in applications or petitions for land registration, with the exception of stenographic notes, within five days from the filing or issuance thereof.

[Emphasis Supplied]

From a perusal of the above-quoted provision, it is apparent that courts of first instance, now the RTC, have exclusive jurisdiction over registration proceedings, including petitions filed after the original registration of title. On the other hand, Section 108 states that:

Sec. 108. Amendment and alterations of certificates. -

No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by the Register of Deeds, except by order of the proper Court of First Instance. x x x

All petitions or motions filed under this Section as well as any other provision of this Decree after original registration shall be filed and entitled in the original case in which the decree or registration was entered.

The CA was correct in stating that EOI's reliance on Section 108 of P.D. No. 1529 was misplaced. The appellate court aptly cited *Philippine Veteran's Bank v. Valenzuela*²⁵ where the Court held that the prevailing rule was that proceedings under Section 108 were summary in nature, contemplating corrections or insertions of mistakes which were only **clerical** but certainly not controversial issues. Relief under the said legal provision can only be granted if there is unanimity among the parties, or that there is no adverse claim or serious objection on the part of any party in interest.²⁶ Thus, the petition was properly

²⁵ 660 Phil. 358 (2011).

²⁶ *Philippine Woman's Christian Temperance Union, Inc. v. Teodoro R. Yangco 2nd and 3rd Generation Heirs Foundation, Inc.*, G.R. No. 199595, April 2, 2014, 720 SCRA 522, 539.

filed with the RTC-Las Piñas where it was docketed as LRC Case No. LP-05-0089, and not before the court which heard the original registration proceeding under LRC No. N-1238, as the petition involved adversarial issues.

EOI cannot insist that the action should have been filed with the RTC where the original registration was filed and issued considering that the case involved controversial issues. The parties obviously lacked unanimity as EOI even filed a motion to dismiss²⁷ for failure to state a cause of action, claiming that its Torrens Title was indefeasible and could not be collaterally attacked.

Even granting that Section 108 of P.D. No. 1529 was applicable, EOI's second motion to dismiss should still be denied. The second paragraph of Section 108 provides that all petitions or motions, as well as under any other provision of P.D. No. 1529 after original registration, shall be filed in the original case in which the decree or registration was made.

A closer scrutiny of Section 2 and Section 108 of P.D. No. 1529 will show that the former pertains to the grant of jurisdiction to regional trial courts while the latter refers to the venue where the action is to be instituted. EOI's second motion to dismiss was supposed to be on the ground of lack of jurisdiction. It, however, alleges that the petition should not have been filed with the RTC of Las Piñas under LRC Case No. LP-05-0089, but with the RTC where the original title was filed and issued under LRC No. N-1238. Based on the allegations thereof, it appeared that the second motion was invoking the ground of improper venue.

Granting it to be so, the second motion to dismiss was rightfully denied as EOI waived the ground of improper venue after it had filed its first motion to dismiss pursuant to the Omnibus Motion Rule. Section 8 of Rule 15 of the Revised Rules of Court provides that a motion attacking a pleading, order, judgment or proceeding shall include all objections then available, and all objections not so included shall be deemed waived.

In *Spouses de Guzman v. Spouses Ochoa*,²⁸ a second motion to dismiss on the ground of defective verification was denied pursuant to the Omnibus Motion Rule. The Court held:

Section 8, Rule 15 of the Rules of Court defines an omnibus motion as a motion attacking a pleading, judgment or proceeding. A motion to dismiss is an omnibus motion because it attacks a pleading, that is the complaint. For this reason, a motion to dismiss, like any other omnibus motion, must raise and include all objections available at

²⁷ *Rollo*, pp. 159-164.

²⁸ 664 Phil. 107 (2011).

the time of the filing of the motion because under Section 8, “all objections not so included shall be deemed waived.” As inferred from the provision, only the following defenses Under Section 1, Rule 9, are excepted from its application: [a] lack of jurisdiction over the subject matter; [b] there is another action pending between the same parties for the same cause (*litis pendentia*); [c] the action is barred by prior judgment (*res judicata*); and [d] the action is barred by the statute of limitations or prescription.

In the case at bench, the petitioners raised the ground of defective verification and certification of forum shopping only when they filed their second motion to dismiss, despite the fact that this ground was existent and available at the time of the filing of their first motion to dismiss. Absent any justifiable reason to explain this fatal omission, the ground of defective verification and certification of forum shopping was deemed waived and could no longer be questioned by the petitioners in their second motion to dismiss.²⁹

Similar to the above-cited case, EOI erroneously filed a second motion to dismiss raising improper venue as basis—one which is susceptible of being waived—after the first motion to dismiss was denied. EOI only insisted that the proper venue was the RTC where the original case in which the decree or registration was entered and not with the RTC Las Piñas after its first motion to dismiss alleging the failure to state a cause of action was filed and denied. Consequently, the ground of improper venue was deemed waived and could no longer be questioned by EOI because the issue on venue was not raised in its prior motion to dismiss.

WHEREFORE, the petition is DENIED.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

²⁹ Id. at 113.

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Arturo D. Brion
ARTURO D. BRION
Associate Justice
Acting Chairperson

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
Associate Justice

Marvic M.V.F. Leonen
MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Arturo D. Brion
ARTURO D. BRION
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice