



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

BENJAMIN H. CABAÑEZ,
Petitioner,

- versus -

MARIE JOSEPHINE CORDERO
SOLANO A.K.A. MA. JOSEPHINE S.
CABAÑEZ,
Respondent.

x-----

CERTIFIED TRUE COPY

Welfredo V. Capitan
WILFREDO V. CAPITAN
Division Clerk of Court
Third Division

JUN 22 2016

G.R. No. 200180

Present:

VELASCO, JR., J., *Chairperson*,
PERALTA,
PEREZ,
REYES, and
JARDELEZA,* JJ.

Promulgated:

June 6, 2016

Welfredo V. Capitan

DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* seeking to reverse and set aside the Amended Decision¹ and Resolution² of the Court of Appeals (CA), dated August 29, 2011 and January 10, 2012, respectively, in CA-G.R. SP No. 101406.

Subject of the present controversy are two (2) parcels of land located in Alabang Hills, Muntinlupa, with land areas measuring 739 and 421 square meters, and are covered by Transfer Certificates of Title Nos. 154626 and 154627, respectively. Appearing on the face of these titles as the registered owner is herein respondent, "Maria Josephine S. Cabañez, of legal age, married to [herein petitioner] Benjamin H. Cabañez x x x."

* On leave.

¹ Penned by Associate Justice Japa B. Dimaampao, with Associate Justices Rebecca de Guis-Salvador and Mario L. Guariña III, concurring; *rollo* pp. 64-69.

² Penned by Associate Justice Japar B. Dimaampao, with Associate Justice Rebecca de Guis-Salvador and Rodil V. Zalameda, concurring; *id.* at 44-45.

J

On February 12, 2007, respondent filed with the Regional Trial Court (RTC) of Muntinlupa City a “Petition for Correction of the Name and Marital Status of the Registered Owner of Transfer Certificates of Title (TCT) No[s.] 154626 and 154627 of the Registry of Deeds for Muntinlupa City.”³ The petition was docketed as LRC Case No. 07-007 and raffled to Branch 203. In the said petition, respondent alleged as follows:

x x x x

1. Petitioner is of legal age, single and a resident of #21 Doña Ines St., Alabang Hills Village, Muntinlupa City;
2. Petitioner is the owner of two parcels of land situated in Alabang, Muntinlupa City covered by Transfer Certificates of Title No. 154626 and 154627 issued by the Registry of Deed for Muntinlupa, though the same were issued under the name Ma Josephine S. Cabanez, married to Benjamin H. Cabanez. x x x
3. Without knowing the legal implication, Petitioner erroneously made it appear that she is married to Mr. Benjamin when in truth and in fact they are not married but merely living a common-law relationship
4. Mr. Benjamin H. Cabanez is actually married to a certain Leandra D. Cabanez who had previously filed a case against Petitioner, questioning the ownership of the said properties which case however was terminated by virtue of a compromise approved by the court in an Order dated November 23, 2000. x x x
5. Mr. Benjamin H. Cabanez has also declared that he is not actually married to the Petitioner and that he has no interest or share whatsoever in the aforesaid properties as evidenced by the hereto attached copy of the Affidavit of Declaration Against Interest dated January 22, 2007 x x x
6. No interests or rights will be affected by the correction of the name and status of Petitioner as registered owner of the said properties.

PRAYER

WHEREFORE, it is respectfully prayed of this Honorable Court that Petitioner's name and marital status appearing in Transfer Certificates of Title No. 154626 and 154627 be corrected to (sic) from “MA. JOSEPHINE S. CABANEZ, married to BENJAMIN H. CABANEZ” to [“]MARIE JOSEPHINE C. SOLANO, single” as it is the true and actual status of petitioner.

x x x x⁴

The RTC then conducted hearings where respondent presented her evidence *ex parte*.

On June 28, 2007, the RTC of Muntinlupa, Branch 203, rendered its Decision, the dispositive portion of which reads as follows:

³ *Id.* at 116.

⁴ *Id.* at 116-117.

WHEREFORE, finding the petition to be well-founded and meritorious, the same is hereby **GRANTED**.

Accordingly, the Register of Deeds of Muntinlupa City is directed to cause the correction of the name and civil status of the registered owner of Transfer Certificate of Title Nos. 154626 and 154627 from MA. JOSEPHINE S. CABANEZ, married to BENJAMIN H. CABANEZ, to MARIE JOSEPHINE C. SOLANO, single.

SO ORDERED.⁵

The RTC held that from the evidence presented by herein respondent, it has been satisfactorily established that the subject properties should indeed be in respondent's name and that her status should be "single".

On November 23, 2007, herein petitioner filed with the CA a Petition for Annulment of Judgment⁶ assailing the above Decision of the RTC on the ground that the said trial court did not acquire jurisdiction over the subject matter of the case because respondent's petition was not published in a newspaper of general circulation and that petitioner and other persons who may have interest in the subject properties were not served summons.

On January 27, 2011, the CA rendered a Decision, disposing as follows:

WHEREFORE, the instant *Petition for Annulment of Judgment* is hereby **GRANTED**. The *Decision* dated 28 June 2007 of the Regional Trial Court of Muntinlupa City, Branch 203, in LRC Case No. 07-007, is **ANNULLED** and **SET ASIDE**.

SO ORDERED.⁷

The CA ruled, among others, that respondent's petition for correction of her name and marital status as appearing in the subject TCTs should have been published in accordance with Rule 108 of the Rules of Court and that respondent failed to present sufficient evidence to prove compliance with such requirement. The appellate court also held that respondent also failed to serve summons upon petitioner, which is in violation of the latter's right to due process and of the principle of fair play.

Respondent then filed a Motion for Reconsideration⁸ contending, among others, that the provisions of PD 1529, and not Rule 108 of the Rules of Court, should be applied in the present case; posting of the notice of hearing of respondent's petition is deemed constructive notice to the whole

⁵ *Id.* at 120-121.

⁶ *Id.* at 126.

⁷ *Id.* at 244-245.

⁸ *Id.* at 246.

world, including petitioner; the petition filed by respondent is an action in rem where jurisdiction over the person of the defendant is not a prerequisite to confer jurisdiction on the court, provided that the court acquires jurisdiction over the *res*.

After petitioner filed its Comment,⁹ the CA rendered its presently assailed Amended Decision and disposed, thus:

WHEREFORE, the *Motion for Reconsideration* is hereby **GRANTED**. The *Decision* dated 28 June 2007 of the Regional Trial Court of Muntinlupa City, Branch 203, in LRC Case No. 07-007, is **REINSTATED**. Perforce, the *Petition for Annulment of Judgment* is **DENIED**.

SO ORDERED.¹⁰

This time, the CA agreed with respondent and ruled that PD 1529 is the governing law and that there is nothing under the pertinent provisions of the said law which states that publication is a requirement for the RTC to acquire jurisdiction over respondent's petition. The CA also ruled that petitioner failed to prove the existence of extrinsic fraud as a ground for annulment of the assailed judgment of the RTC.

Aggrieved, petitioner filed a Motion for Reconsideration.¹¹

However, in its Resolution of January 10, 2012, the CA denied petitioner's Motion for Reconsideration.

Hence, the present petition for review on certiorari based on the following grounds:

A.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS PATENTLY ERRED IN AMENDING ITS ORIGINAL DECISION DATED JANUARY 27, 2011 CONSIDERING THAT THE REQUIREMENTS OF PUBLICATION AND SUMMONS WERE NOT COMPLIED WITH.

B.

WHETHER OR NOT THE PROCEEDING PROVIDED FOR UNDER SECTION 108 OF PRESIDENTIAL DECREE NO. 1529 IS SUMMARY IN NATURE ALBEIT THE EVIDENT PRESENCE OF OTHER INTERESTED PARTIES THAT MAY BE AFFECTED BY THE JUDGMENT AS A RESULT OF EX-PARTE PROCEEDINGS.

⁹ *Id.* at 260.

¹⁰ *Id.* at 15.

¹¹ *Id.* at 17.

C.

WHETHER OR NOT THE RULING OF THE HONORABLE SUPREME COURT IN THE CASE OF *CHAN V. COURT OF APPEALS* (298 SCRA 713, 733) APPLIES IN THE INSTANT CASE WHERE IT WAS RULED THAT MERE NOTICE TO THE REGISTER OF DEEDS WAS A SUBSTANTIAL COMPLIANCE.

D.

WHETHER OR NOT AMENDMENT AND ALTERATION OF CERTIFICATES OF TITLE PROVIDED FOR UNDER SECTION 108 OF PD 1529 IS AN IN REM PROCEEDINGS THAT REQUIRES STRICT COMPLIANCE WITH THE PUBLICATION REQUIREMENT.

E.

WHETHER OR NOT SECTIONS 3 AND 4 OF RULE 108 OF THE RULES OF COURT SUPPLETORILY APPLY TO THE PROCEEDINGS PROVIDED FOR UNDER SECTION 108 OF PD 1529 WHEREIN THE REQUIREMENT OF PUBLICATION IS MANDATORY.

F.

WHETHER OR NOT THE PHRASE "THE COURT MAY HEAR AND DETERMINE THE PETITION AFTER NOTICE TO ALL PARTIES IN INTEREST" IN SECTION 108 OF PD 1529 INCLUDES PUBLICATION AND SERVICE OF SUMMONS.

G.

WHETHER OR NOT THE COURT A QUO ACQUIRED JURISDICTION OVER THE SUBJECT MATTER OF THE PETITION IN THE ABSENCE OF SUMMONS AND PUBLICATION.

H.

WHETHER OR NOT PETITIONER IS AN INDISPENSABLE PARTY IN THE PETITION FOR CORRECTION OF NAME AND MARITAL STATUS IN THE TRANSFER CERTIFICATE OF TITLE NO. 154627 AND 154628.

I.

WHETHER OR NOT LEANDRA D. CABAÑEZ IS ENTITLED TO NOTICE AND SERVICE OF SUMMONS BY VIRTUE OF THE DECISION OF THE REGIONAL TRIAL COURT OF MAKATIY CITY-BRANCH 137 TO THE EFFECT THAT THE PARCELS OF LAND LEGALLY BELONGED TO THEIR CONJUGAL PROPERTY.

J.

WHETHER OR NOT AN AFFIDAVIT THE CONTENTS OF WHICH WAS NOT TESTIFIED TO HAS PROBATIVE VALUE.

K.

WHETHER OR NOT THE SECURITY OR BOND MENTIONED IN SECTION 108 OF PD 1529 BEFORE ENTRY OF CORRECTION OR ALTERATION MAY BE MADE IS MANDATORY TO PROTECT THE INTEREST OF THIRD PERSON.

L.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS [IS] PROCEDURALLY CORRECT IN ADMITTING THE SUPPLEMENTAL MEMORANDUM OF THE RESPONDENT DESPITE THE FACT THAT THE PETITION WAS ALREADY LONG SUBMITTED FOR DECISION.¹²

The Court finds merit in the petition, but for reasons which are not identical as those espoused by petitioner.

At the outset, it bears to reiterate that the CA ruled on the basis of the provisions of Presidential Decree No. 1529 (PD 1529), otherwise known as the Property Registration Decree. Specifically, the CA cited Sections 2 and 108 of the said law, which provide as follows:

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)

Section 108. *Amendment and alteration 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 be Register of Deeds, except by order of the proper Court of First Instance. A registered owner of other person having an interest in registered property, or, in proper cases, the Register of Deeds with the approval of the Commissioner of Land Registration, may apply by petition to the court upon the ground that the registered interests of any description, whether vested, contingent, expectant or inchoate appearing on the certificate, have terminated and ceased; or that new interest not appearing upon the certificate have arisen or been created; or that an omission or error was made in entering a certificate or any memorandum thereon, or, on any duplicate certificate; or that the same or any person on the certificate has been changed; or that the registered owner has married, or, if registered as married, that the marriage has been terminated and no right or interests of heirs or creditors will thereby be affected; or that a corporation which owned registered land and has been dissolved has not convened the same within three years after its dissolution; or upon any other reasonable ground; and the court may hear and determine the petition after notice to all parties in interest, and may order the entry or

¹²

Id. at 40-42.

cancellation of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security or bond if necessary, as it may consider proper; Provided, however, That this section shall not be construed to give the court authority to reopen the judgment or decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs and assigns, without his or their written consent. Where the owner's duplicate certificate is not presented, a similar petition may be filed as provided in the preceding section. (emphasis supplied)

All petitions or motions filed under this Section as well as under 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 Court notes that the petition was clearly one which was filed after original registration of title, as provided under the abovequoted Section 2 of PD 1529. Moreover, respondent's petition was filed with the RTC for the purpose of correcting supposed errors which were committed when entries were made in the subject TCTs, as contemplated under Section 108 of the same law.

However, under settled jurisprudence, the enumerated instances for amendment or alteration of a certificate of title under Section 108 of PD 1529 are non-controversial in nature.¹³ They are limited to issues so patently insubstantial as not to be genuine issues. The proceedings thereunder are summary in nature, contemplating insertions of mistakes which are only clerical, but certainly not controversial issues.

As early as the case of *Tangunan v. Republic of the Philippines*¹⁴, which was later cited in *Angeles v. Razon, et al.*¹⁵, this Court, sitting *en banc*, ruled that:

x x x the lower court did not err in finding that it lacks jurisdiction to entertain the present petition for the simple reason that it involves a controversial issue which takes this case out of the scope of Section 112 of Act No. 496 [now Section 108 of PD 1529]. While this section, among other things, authorized a person in interest to ask the court for any erasure, alteration, or amendment of a certificate of title "upon the ground that registered interests of any description, whether vested, contingent expectant, or inchoate, have terminated and ceased", and apparently the

¹³ *Ernesto Oppen, Inc. v. Compas*, G.R. No. 203969, October 21, 2015; *Banguis-Tambuyat v. Balcom-Tambuyat*, G.R. No. 202805, March 23, 2015; *Philippine Women's Christian Temperance Union, Inc. v. Teodoro Yangco 2nd and 3rd Generation Heirs Foundation*, G.R. No. 199595, April 2, 2014, 720 SCRA 522, 539; *Philippine Veterans Bank v. Valenzuela*, 660 Phil. 358, 366 (2011); *Tagaytay-Taal Tourist Development Corporation v. Court of Appeals (Special Ninth Division) and The City of Tagaytay*, 339 Phil. 377, 389 (1997).

¹⁴ 94 Phil. 171 (1953).

¹⁵ 106 Phil. 384 (1959).

petition comes under its scope, such relief can only be granted if there is unanimity among the parties, or there is no adverse claim or serious objection on the part of any party in interest; otherwise the case becomes controversial and should be threshed out in an ordinary case or in the case where the incident properly belongs. Thus, it was held that "It is not proper to cancel an original certificate of Torrens title issued exclusively in the name of a deceased person, and to issue a new certificate in the name of his heirs, under the provisions of Section 112 of Act No. 496, when the surviving spouse claims right of ownership over the land covered by said certificate." And, in another case, where there was a serious controversy between the parties as to the right of ownership over the properties involved, this court held, "that following the principle laid down in the decision above cited, the issues herein should be ventilated in a regular action x x x."¹⁶ (citations omitted)

In the present case, the Court notes that in a separate action for annulment of title and recovery of ownership filed by petitioner's wife against respondent, the RTC of Makati City, Branch 137, in its decision in Civil Case No. 91-2648, dated July 5, 1993, made a categorical finding that petitioner and his wife are the lawful owners of the subject properties and ordering respondent to surrender possession thereof to the said spouses.¹⁷ This RTC judgment was later affirmed by the CA in its Decision¹⁸ in CA-G.R. CV No. 49446, dated April 29, 1997. Respondent, on the other hand, claims that she together with petitioner and his wife subsequently executed an amicable settlement dated June 22, 2000, which was approved by the RTC, wherein petitioner's wife waived her rights and interests over the said properties. She also alleged that petitioner executed an Affidavit of Declaration Against Interest, dated January 22, 2007, indicating that he has no right or interest over the subject properties. Petitioner, nonetheless, claims that he executed a subsequent Affidavit of Non-Waiver of Interest, dated January 14, 2008, claiming that he was deceived by respondent into signing the said Affidavit of Declaration Against Interest and that he was seriously ill at the time that he affixed his signature.

From the foregoing, there is no question that there is a serious objection and an adverse claim on the part of an interested party as shown by petitioner's subsequent execution of his Affidavit of Non-Waiver of Interest. The absence of unanimity among the parties is also evidenced by petitioner's petition seeking the annulment of the RTC Decision which granted respondent's petition for correction of entries in the subject TCTs. These objections and claims necessarily entail litigious and controversial matters making it imperative to conduct an exhaustive examination of the factual and legal bases of the parties' respective positions. Certainly, such objective cannot be accomplished by the court through the abbreviated action under Section 108 of PD 1529. A complete determination of the issues in the

¹⁶ *Supra* note 14, at 174-175.

¹⁷ See RTC Decision, *rollo*, pp. 98-102.

¹⁸ *Id.* at 103-112.

present case can only be achieved if petitioner and his wife are impleaded in an adversarial proceeding.

In addition, the Court finds apropos to the instant case the ruling in the similar case of *Martinez v. Evangelista*¹⁹ where the petitioner in the said case, being the registered owner of certain real properties, sought to strike out the words “married to x x x” appearing in the Transfer Certificates of Title covering the said properties on the ground that the same was so entered by reason of clerical error or oversight and in lieu thereof the word “single” be substituted, which according to the petitioner in the said case is his true and correct civil status. This Court held that:

x x x x changes in the citizenship of a person or in his status from legitimate to illegitimate or from married to not married are substantial as well as controversial, which can only be established in an appropriate adversary proceeding as a remedy for the adjudication of real and justifiable controversies involving actual conflict of rights the final determination of which depends upon the resolution of issues of nationality, paternity, filiation or legitimacy of the marital status for which existing substantive and procedural laws as well as other rules of court amply provide.²⁰

In the present case, it is now apparent that before the trial court can alter the description of the civil status of respondent in the transfer certificates of title in question, it will have to receive evidence of and determine respondent's civil status. This requires a full dress trial rendering the summary proceedings envisaged in Section 108 of PD 1529 inadequate.

Finally, it is settled that a land registration case is a proceeding *in rem*, and jurisdiction *in rem* cannot be acquired unless there be constructive seizure of the land through publication and service of notice.²¹ However, as found by the CA, respondent failed to comply with the said requirements. In all cases where the authority of the courts to proceed is conferred by a statute, and when the manner of obtaining jurisdiction is mandatory, it must be strictly complied with, or the proceedings will be utterly void.²² It is wrong for the CA to rule in its Amended Decision that publication is not a jurisdictional requirement for the RTC to take cognizance of respondent's petition. The appellate court's reliance on the case of *Chan v. Court of Appeals*²³ is misplaced. In the said case, this Court considered the notice to the Register of Deeds as substantial compliance with the notice and publication requirements of the law simply because in the petition for

¹⁹ G.R. No. L-26399, January 31, 1981, 102 SCRA 551.

²⁰ *Id.* at 555-556.

²¹ *Republic of the Philippines v. Herbierto*, 498 Phil. 227, 239 (2005); *Republic of the Philippines v. Court of Appeals*, 327 Phil. 852, 868 (1996).

²² *Republic of the Philippines v. Court of Appeals*, G.R. No. 100995, September 14, 1994, 236 SCRA 442, 447.

²³ 359 Phil. 243 (1998).

correction filed by the petitioner therein, only the said petitioner and the Register of Deeds had an interest in the correction of titles sought for. This Court ruled that there is therefore no necessity to notify other parties who had no interest to protect in the said petition. This is not true, however, in the present case. As discussed above, on the bases of petitioner's serious objection and adverse claim, it is apparent that he has an interest to protect. Thus, the ruling in *Chan* finds no application in the instant case.

WHEREFORE, the instant petition is **GRANTED**. The Amended Decision and Resolution of the Court of Appeals, dated August 29, 2011 and January 10, 2012, respectively, in CA-G.R. SP No. 101406, are **REVERSED** and **SET ASIDE**. The Decision of the Court of Appeals, dated January 27, 2011, which annulled the June 28, 2007 Decision of the Regional Trial Court of Muntinlupa City, Branch 203, is **REINSTATED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



JOSE PORTUGAL PEREZ
Associate Justice

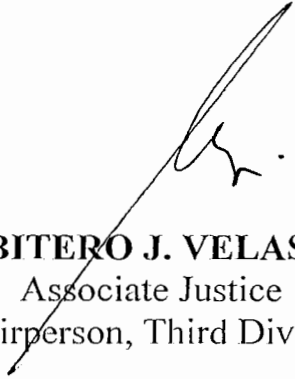


BIENVENIDO L. REYES
Associate Justice

On leave
FRANCIS H. JARDELEZA
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.




PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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.



ANTONIO T. CARPIO
Acting Chief Justice

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WILFREDO V. LAITAN
Division Clerk of Court
Third Division
JUN 22 2016