



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
 Supreme Court
 Baguio City

SECOND DIVISION

HEIRS OF PROCOPIO BORRAS,
 namely: **VICTORIANO BORRAS,**
LORENZO BORRAS, JOSE
DESCALZO, ISIDRO
CORDOVILLA, RODOLFO
CORDOVILLA, represented by their
 co-heir and Attorney-in-Fact, **RAUL**
CORDOVILLA,
Petitioners,

G.R. No. 213888

Present:
PERLAS-BERNABE, S.A.J.,*
HERNANDO,
*Acting Chairperson,***
ZALAMEDA,
GAERLAN,** and
MARQUEZ, JJ.

- versus -

THE HEIRS OF EUSTAQUIO
BORRAS, namely: **ANGELINA B.**
GARAY, INOCENCIO BORRAS,
ESTER SANTANDER, AMADO
BORRAS, and PORFERIO
BORRAS,
Respondents.¹

Promulgated.

APR 25 2022

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DECISION

* On official leave.
 ** Per Special Order No. 2887 dated April 8, 2022.
 *** Designated Additional Member per Raffle dated March 28, 2022 vice J. Rosario who penned the assailed Decision.
¹ The Regional Trial Court, formerly Court of First Instance of Albay, Branch 2, Legazpi City was dropped as party-respondent pursuant to Section 2, Rule 45 of the Rules of Court.

HERNANDO, J.:

Before this Court is a petition for review on *certiorari*² assailing the (1) January 15, 2014 Decision³ issued by the Court of Appeals (CA) in CA-G.R. SP No. 124946, which dismissed the petition for annulment of judgment filed by the Heirs of Procopio Borrás (petitioners), and (2) the August 14, 2014 Resolution⁴ of the CA denying the motion for reconsideration thereof.

Factual Antecedents:

Procopio Borrás (Procopio) was the owner of several parcels of land, one of which was Lot No. 5275 located at Barrio Bigaa, Legazpi City, and covered by Original Certificate of Title (OCT) No. [NA] 2097. Upon Procopio's death, the properties were inherited by his five children namely: Inocencio, Vicente, Aurelia, Severina and Leonila.

Upon the death of all the siblings, the properties were inherited by their respective children, including Eustaquio Borrás (Eustaquio), son of Inocencio.⁵

On April 10, 2004, the Heirs of Eustaquio (respondents) claimed ownership of Lot No. 5275. This was contested by petitioners. The dispute was referred to barangay conciliation which resulted to the discovery of petitioners that Lot No. 5275 is already registered in the name of Eustaquio Borrás.⁶

It appears that during his lifetime, Eustaquio claimed ownership over Lot No. 5275 when he filed a petition for reconstitution before the then Court of First Instance (CFI) of Albay, Branch II, docketed as Cad. Case No. RT-1998 for the reconstitution of OCT No. [NA] 2097, with prayer for issuance of a transfer certificate of title in his name.⁷ On July 7, 1980, the CFI issued an Order,⁸ the *fallo* of which states:

WHEREFORE, premises considered, the City Register of Deeds of Legazpi City is hereby ordered to reconstitute the original certificate of title covering Lot No. 5275, Albay 2adaster, in the name of:

PROCOPIO BORRAS, Filipino, of legal age, married to Francisca Azupardo, a resident of Legazpi City.

² *Rollo*, pp. 10-26.

³ *Id.* at 28-39. Penned by Associate Justice Ricardo R. Rosario (now a Member of the Court) and concurred in by Associate Justice Rosmari D. Carandang (now a retired Member of the Court) and Associate Justice Danton Q. Bueser.

⁴ *Id.* at 49.

⁵ *Id.* at 29.

⁶ *Id.*

⁷ *Id.* at 53-54.

⁸ *Id.* at 55-57.

and thereafter, to cancel the reconstituted title and in lieu thereof, to issue a transfer certificate of title in the name of the petitioner, viz:

EUSTAQUIO BORRAS, Filipino, of legal age, married to
Magdalena Ascutia, a resident of Bigaa, Legazpi City,

using the documents herein presented as bases for the reconstitution of the title and issuance of the transfer certificate of title, upon payment of the corresponding legal fees.

SO ORDERED.⁹

Pursuant thereto, Transfer Certificate of Title (TCT) No. 21502¹⁰ was issued in the name of Eustaquio.

Upon learning of the existence of TCT No. 21502, petitioners filed an action for quieting of title before the Regional Trial Court (RTC) of Legazpi City, Branch 2, on October 12, 2004, which docketed as Civil Case No. 10402.

On June 21, 2007, the RTC rendered a Decision¹¹ in favor of petitioners, the dispositive part of which states:

WHEREFORE, judgment is hereby rendered as follows:

1. Transfer Certificate of Title No. 21502, in the name of Eustaquio Borrás is declared null and void;
2. Original Certificate of Title No. (NA) 2097 is reinstated as the valid and legal title over Lot 5275 in the name [of] Procopio Borrás;
3. Plaintiffs' as well as defendants' claim for moral damages and attorney's fees are dismissed for lack of factual or legal bases.

No pronouncement as to cost.

So Ordered.¹²

Respondents filed an appeal before the CA, docketed as CA-G.R. CV No. 90004, questioning the jurisdiction of the RTC in declaring TCT No. 21502 null and void. In its March 30, 2011 Decision,¹³ the CA granted the appeal and ruled that the RTC had no jurisdiction to pass upon the validity of TCT No. 21502 in an action for quieting of title. The CA ruled that while a TCT should not have been issued to Eustaquio in an action for reconstitution, the declaration of its

⁹ Id. at 57.

¹⁰ Id. at 51-52.

¹¹ Id. at 58-69.

¹² Id. at 68-69.

¹³ Id. at 70-78.

nullity can only be had either in an action for annulment of judgment under Rule 47 of the Rules of Court before the CA, or in an action for reconveyance before the RTC. Thus, the CA reversed the June 21, 2007 RTC Decision, without prejudice to the filing of the proper action. A motion for reconsideration was filed by petitioners but it was denied by the CA in a Resolution¹⁴ dated August 9, 2011.

Thereafter, petitioners filed before the CA a petition for annulment of judgment,¹⁵ which was docketed as CA-G.R. SP No. 124946. Petitioners sought the annulment of the July 7, 1980 Order of the CFI insofar as it ordered the cancellation of OCT No. [NA] 2097 in the name Procopio and the issuance of a TCT in favor of Eustaquio.

Ruling of the Court of Appeals:

On January 15, 2014, the CA dismissed the petition for annulment of judgment on the ground that petitioners failed to prove the existence of extrinsic fraud or lack of jurisdiction of the CFI when it promulgated its July 7, 1980 Order.¹⁶ In dismissing the petition, the CA held that:

We therefore agree with petitioners that the trial court had exceeded its jurisdiction in a case for reconstitution of title when it ordered the cancellation of the reconstituted title in Procopio Borrás' name and thereafter ordered the issuance of a new title in Eustaquio Borrás' favor. However, this is not sufficient reason for Us to set aside the assailed Order.

The only grounds for annulling a judgment are extrinsic fraud and lack of jurisdiction over the person of the defending party or over the subject matter of the claim. X x x For a petition for annulment of judgment on the ground of lack of jurisdiction over the subject matter to prosper, petitioners must show not merely an abuse of jurisdictional discretion but an absolute lack of jurisdiction. Evidently, the trial court's action in excess of its jurisdiction does not fall within this requirement.

x x x x

There is another reason why the petition for annulment of judgment must fail. A petition for annulment of judgment or final order of a regional trial court can be availed of only "where the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner." From a reading of the allegations in the present petition, it appears that the issuance of a transfer certificate of title in Eustaquio Borrás'

¹⁴ CA *rollo*, p. 46.

¹⁵ *Rollo*, pp. 79-89.

¹⁶ *Id.* at 28-39.

name had been tainted with fraud. Considering petitioners' averment that they are presently occupying the property in dispute, petitioners are not precluded from filing an action for reconveyance.¹⁷

Petitioners filed a Motion for Reconsideration¹⁸ but the appellate court denied it in its August 14, 2014 Resolution.¹⁹

Hence, the instant Petition.

ISSUES

In this petition, petitioners raise the following assignment of errors, to wit:

- A. WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT CONSIDERING THAT THE PETITION FOR ANNULMENT OF JUDGMENT IS THE PROPER REMEDY RESORTED BY THE PETITIONERS GIVEN THAT THE RESPONDENT TRIAL COURT HAS NO JURISDICTION OVER THE SUBJECT MATTER AND OVER THE PARTIES WHEN IT ALLOWED THE CANCELLATION OF THE RECONSTITUTED TITLE IN THE NAME OF PROCOPIO BORRAS AND ORDERED THE ISSUANCE OF TRANSFER CERTIFICATE OF TITLE NO. 21502 IN FAVOR OF EUSTAQUIO BORRAS IN A RECONSTITUTION PROCEEDING.
- B. WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT TAKING INTO CONSIDERATION THAT THE PETITION FOR ANNULMENT OF JUDGMENT IS THE ONLY REMEDY AVAILABLE TO PETITIONERS AS THE ASSAILED JULY 7, 1980 ORDER OF THE RESPONDENT TRIAL COURT WAS DISCOVERED BY PETITIONERS ONLY IN 2004 OR ALMOST 24 YEARS FROM THE DATE THEREOF; AND
- C. WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT PETITIONERS' PROPER REMEDY IS A CASE FOR RECONVEYANCE COGNIZABLE BY THE REGIONAL TRIAL COURT AND NOT A PETITION FOR ANNULMENT OF THE JULY 7, 1980 DECISION OF THE RESPONDENT TRIAL COURT OVER WHICH COURT OF APPEALS HAS JURISDICTION TO DECIDE.²⁰

Petitioners insist that an annulment of judgment is the proper remedy given that the then CFI had no jurisdiction in ordering the cancellation of OCT No. (NA) 2097 and directing the issuance of a new one on favor of Eustaquio.

¹⁷ Id. at 34-36.

¹⁸ Id. at 41-48.

¹⁹ Id. at 49.

²⁰ Id. at 16-17.

Our Ruling

The petition is without merit.

Annulment of judgment may either be based on the ground that a judgment is void for want of jurisdiction or that the judgment was obtained by extrinsic fraud. It is a remedy in equity so exceptional in nature that it may be availed of only when other remedies are wanting.²¹

Lack of jurisdiction as a ground for annulment of judgment refers to either lack of jurisdiction over the person of the defending party or over the subject matter of the claim. In a petition for annulment of judgment based on lack of jurisdiction, petitioner must show not merely an abuse of jurisdictional discretion but an absolute lack of jurisdiction. Lack of jurisdiction means absence of or no jurisdiction, that is, the court should not have taken cognizance of the petition because the law does not vest it with jurisdiction over the subject matter. Jurisdiction over the nature of the action or subject matter is conferred by law.²²

The petitioner cannot rely on jurisdictional defect due to grave abuse of discretion, but on absolute lack of jurisdiction. The concept of lack of jurisdiction as a ground to annul a judgment does not embrace grave abuse of discretion amounting to lack or excess of jurisdiction.²³

In this case, there is no question that the then CFI had jurisdiction over the petition for reconstitution at inception. Petitioners argue that the order of the CFI in cancelling OCT No. [NA] 2097 and directing the issuance of a new TCT in favor of Eustaquio was in excess and was beyond the scope of a reconstitution case. The purpose of a reconstitution action is merely to reproduce a certificate of title, after proper proceedings, in the same form it was when it was lost or destroyed. Hence, in such action, a trial court cannot order the cancellation of the original title nor direct the issuance of a new TCT in favor of another.

Section 12, in relation to Section 15, of Republic Act No. 26,²⁴ the governing law for judicial reconstitution, instructs when reconstitution of a title should be allowed, *viz.*:

Section 12. Petitions for reconstitution from sources enumerated in sections 2E, 2(d), 2E, 2(f), 3E, 3(d), 3E and/or 3(f) of this Act,²⁵ shall be filed with

²¹ *Toledo v. Court of Appeals*, 765 Phil. 649, 658 (2015).

²² *Spouses Manila v. Spouses Manzo*, 672 Phil. 460, 473 (2011).

²³ *Lasala v. National Food Authority*, 767 Phil. 285, 301 (2015)

²⁴ Entitled "AN ACT PROVIDING A SPECIAL PROCEDURE FOR THE RECONSTITUTION OF TORRENS CERTIFICATES OF TITLE LOST OR DESTROYED." Approved: September 25, 1946.

²⁵ Section 2. Original certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:

x x x x

(c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;

the proper Court of First Instance, by the registered owner, his assigns, or any person having an interest in the property. x x x

x x x x

Section 15. If the court, after hearing, finds that the documents presented, as supported by parole evidence or otherwise, are sufficient and proper to warrant the reconstitution of the lost or destroyed certificate of title, and that the petitioner is the registered owner of the property or has an interest therein, that the said certificate of title was in force at the time it was lost or destroyed, and that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title, an order of reconstitution shall be issued. The clerk of court shall forward to the register of deeds a certified copy of said order and all the documents which, pursuant to said order, are to be used as the basis of the reconstitution. If the court finds that there is no sufficient evidence or basis to justify the reconstitution, the petition shall be dismissed, but such dismissal shall not preclude the right of the party or parties entitled thereto to file an application for confirmation of his or their title under the provisions of the Land Registration Act.

Clearly, the reconstitution of a certificate of title denotes restoration in the original form and condition of a lost or destroyed instrument attesting the title of a person to a piece of land. The purpose of the reconstitution of title is to have, after observing the procedures prescribed by law, the title reproduced in exactly the same way it has been when the loss or destruction occurred.²⁶ A reconstitution of title does not pass upon the ownership of land covered by the

(d) An authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original certificate of title was issued;

(e) A document, on file in the registry of deeds, by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original had been registered; and

(f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

Section 3. Transfer certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:

x x x x

(c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;

(d) The deed of transfer or other document, on file in the registry of deeds, containing the description of the property, or an authenticated copy thereof, showing that its original had been registered, and pursuant to which the lost or destroyed transfer certificate of title was issued;

(e) A document, on file in the registry of deeds, by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original had been registered; and

(f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

²⁶ Republic v. Spouses Fule, G.R. No. 239273, March 2, 2020.

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lost or destroyed title but merely determines whether a re-issuance of such title is proper.²⁷

Here, while there is no question that the CFI acted in excess of its jurisdiction when it went beyond ordering the reconstitution of OCT No. [NA] 2097 by ordering its cancellation, and directing the issuance of a new TCT in favor of Eustaquio, nevertheless, such order of the CFI was done in the exercise of its jurisdiction and not the lack thereof.

Jurisdiction is not the same as the exercise of jurisdiction. As distinguished from the exercise of jurisdiction, jurisdiction is the authority to decide a cause, and not the decision rendered therein. Where there is jurisdiction over the person and the subject matter, the decision on all other questions arising in the case is but an exercise of the jurisdiction. And the errors which the court may commit in the exercise of jurisdiction are merely errors of judgment which are the proper subject of an appeal.²⁸

The lack of jurisdiction envisioned in Rule 47 is the total absence of jurisdiction over the person of a party or over the subject matter. When the court has validly acquired its jurisdiction, annulment through lack of jurisdiction is not available when the court's subsequent grave abuse of discretion operated to oust it of its jurisdiction.²⁹

Petitioners also cannot rely on the ruling of the CA in CA-G.R. CV No. 90004 to claim that a petition for annulment of judgment is the proper recourse.

The pertinent portions of the Decision in CA-G.R. CV No. 90004 are herein reproduced:

Be that as it may, it is open to serious doubt whether the RTC of Legazpi City, Branch 2, in the quieting of title case 10402, may render void the title ordered by the cadastral court, the CFI of Albay, Branch 2 in the name of Eustaquio. For this would have the effect of annulling a decision of another court of equal and concurrent jurisdiction. The defendants-appellants are correct in opining that the power is exclusive and original upon the Court of Appeals. To attack the cadastral court's decision for want or excess of jurisdiction, the plaintiff-appellee should have filed a case under Rule 47 with the Court of Appeals.

Putting to one side the question of whether there was a verbal partition of Lot 5275, the plaintiffs-appellees must first choose the right action wherein to raise the issue. It cannot be by an action to quiet a title that under the Property

²⁷ Id.

²⁸ *Lasala v. National Food Authority* at 301, supra note 23 at 301.

²⁹ Id.

Registration Decree is already incontrovertible. It should have been an action for reconveyance. The SPA executed by the plaintiffs-heirs in favor of the Cordovillas hits the nail on the head. It had authorized the latter to file a case for reconveyance.

The theory in reconveyance is that, without altering the terms of the decree or title, the true owner may demand, on equitable grounds that the title be transferred to him. *Cabanos vs. Register of Deeds*, 40 Phil 620, *Recinto vs. Inciong* 77 SCRA 196. The action is, moreover, imprescriptible if the plaintiffs are in possession. *Chacon vs. Court of Appeals*, 124 SCRA 784. Here, as testified to by the opposing parties, they were together in occupancy of Lot 5275 as far as they could remember having succeeded their predecessors-in-interest in the possession thereof. There is no reason why they could not have sued for reconveyance instead of quieting of title.

The cancellation of the title of Eustaquio Borrás and its restoration in the name of Procopio Borrás may be achieved either under a Rule 47 action with the Court of Appeals or in an action for reconveyance with the RTC in the exercise of its original jurisdiction.³⁰

Thus, it is clear in the ruling of the CA that petitioners could avail of either an action for annulment of judgment under Rule 47, or an action for reconveyance. The proper action would be dependent on the ground that petitioners would invoke in questioning the July 7, 1980 Order of the then CFI. Unfortunately, petitioners erroneously filed a petition for annulment of judgment based on the ground of the trial court's exercise in excess of its jurisdiction, which is not a ground in an action for annulment of judgment.

The proper recourse for petitioners should have been to file an action for reconveyance. This is a legal and equitable remedy granted to the rightful owner of land which has been wrongfully or erroneously registered in the name of another for the purpose of compelling the latter to transfer or reconvey the land to him. In an action for reconveyance, the decree of registration is respected as incontrovertible. What is sought instead is the transfer of the property, which has been wrongfully or erroneously registered in another person's name, to its rightful and legal owner, or to one with a better right.³¹


Given the foregoing, the CA did not err in dismissing the petition for annulment of judgment.

WHEREFORE, the petition is hereby **DENIED**. The January 15, 2014 Decision and August 14, 2014 Resolution of the Court of Appeals in CA-G.R. SP No. 124946, are **AFFIRMED**.

³⁰ CA Decision in G.R. CV No. 90004, pp. 7-8; *rollo*, pp. 76-77.

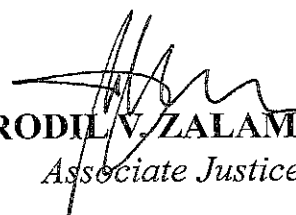
³¹ *Uy v. Court of Appeals*, 769 Phil. 705, 718-719 (2015).

SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

On official leave.
ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

ATTESTATION

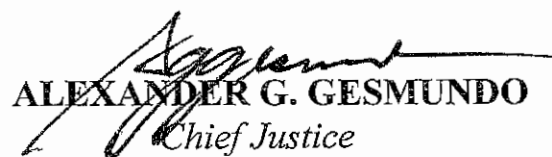
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson

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.



ALEXANDER G. GESMUNDO
Chief Justice

