Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **October 16, 2019** *which reads as follows:*

"**G.R. No. 195319** ***(Republic of the Philippines v. Spouses Francisco S. Amarra and Maria Sofia V. Amarra)***

The case stemmed from an application for land registration over a parcel of land containing an area of thirty thousand (30,000) square meters situated at Barangay Sorosoro Carsada, Batangas City, filed by Spouses Francisco S. Amarra and Maria Sofia V. Amarra *(respondents)*. On May 12, 2008, the Municipal Trial Court in Cities *(MTCC)*, Batangas City, Branch 2, rendered a Decision[1] confirming title of the subject land to respondents. The trial court found that respondents had sufficiently and completely established ownership and possession of the subject land.

On July 8, 2009, the MTCC issued an Order[2] directing the Land Registration Authority *(LRA)* to issue the corresponding decree in favor of respondents considering that the MTCC Decision had already attained finality. The trial court found a presumption of regularity in the mailing of the MTCC Decision to the Office of the Solicitor General *(OSG)* as shown by the Registry Return Receipt, dated June 30, 2008. Therefore, it was presumed that the OSG had received the decision.

The OSG filed a Petition for Relief from Judgment[3] alleging that it only learned of the MTCC Decision upon its receipt of the July 8, 2009 Order on August 11, 2009. In its petition, the OSG, thru Associate Solicitor Russell D. Sabado *(Associate Solicitor Sabado)*,

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[1] *Rollo*, pp. 80-86; penned by Judge Eleuterio L. Bathan.
[2] Id. at 87.
[3] Id. at 88-108.

- over – ten (10) pages ...

blame the excusable negligence[4] of Benilda S. Liwanag *(Liwanag)*, OSG Senior Administrative Assistant I, which caused the Republic to lose its right to appeal the case. Her Affidavit[5] was attached to the petition. She admitted that the OSG, through the Docket Management Service, received a copy of the May 12, 2008 MTCC Decision on July 3, 2008, based on the Case Management Tools and the receiving logbook of incoming documents. She claimed that due to the heavy volume of inbound documents, it was possible that she had inadvertently misplaced the MTCC Decision and, was thus, unable to route it to Associate Solicitor Sabado for guidance and disposition.

In its plea to restore the right to appeal, petitioner claims that it has meritorious grounds, such as: that respondents failed to prove the subject land as alienable and disposable land of the public domain and that they failed to show a sufficient title proper for registration.

On October 15, 2009, the MTCC denied the Petition for Relief from Judgment.[6] Petitioner's motion for reconsideration was likewise denied.[7]

Petitioner elevated its case to the Court of Appeals *(CA)* imputing grave abuse of discretion. The CA found no merit in said petition and accordingly affirmed the Orders issued by the MTCC.[8]

The CA also denied petitioner's motion for reconsideration.[9]

Hence, this petition.

Meanwhile, the LRA issued Original Certificate of Title No. 2010000031 in favor of respondents.[10]

Ruling of the MTCC

The trial court said that the loss of the remedy of appeal was due to the negligence of Liwanag. In her affidavit, she used the word "possible," and therefore, was not sure whether such inadvertence was unintentional or intentional. Petitioner should thus suffer the consequences of Liwanag's negligence. It further ruled that petitioner was not entitled to relief under Rule 38, Section 2 of the Rules of

[4] Id. at 89.
[5] Id. at 109-110.
[6] Id. at 111-113.
[7] Id. at 124.
[8] Id. at 46-58; penned by Associate Justice Isaias Dicdican, with Associate Justices Stephen C. Cruz and Michael P. Elbinias, concurring.
[9] Id. at 59-60.
[10] Id. at 182-184.

Court as the Republic was not prevented from filing a notice of appeal by fraud, accident, mistake or excusable negligence. The relief afforded by Rule 38 will not be granted to a party who seeks to be relieved from the effects of the judgment when the loss of the remedy of law is due to his own negligence, or a mistaken mode of procedure for that matter; otherwise, the petition for relief would be tantamount to reviving the right of appeal which had already been lost, either because of inexcusable negligence or due to a mistake in procedure by counsel.

Ruling of the CA

The appellate court found that Liwanag's failure to route the copy of the MTCC Decision to Associate Solicitor Sabado could not, by any stretch of imagination, be considered as excusable negligence that would justify the grant of relief from judgment. According to the CA, misplacing a copy of the decision, inadvertent as it may be, is such negligence which ordinary prudence and diligence could have guarded against. Petitioner's failure to timely assail the MTCC Decision is a direct result of its counsel's carelessness and inattention.

The CA held that petitioner's reliance on *Republic of the Phils. v. T.A.N. Properties, Inc.*[11] is unavailing, considering that the Certification from the Community Environment and Natural Resources Office *(CENRO)* in that case was held insufficient as the area of the parcel of land sought to be registered therein was more than 50 hectares as compared to this case which seeks to register a parcel of land with an area of only 3 hectares, citing that CENRO has the authority to issue a certificate of land classification for land with an area of 50 hectares or less.

Finally, considering that the MTCC Decision had already become final and executory, the appellate court was constrained to rule against the propriety of the purported meritorious defenses of petitioner.

ISSUES

Petitioner raises the following issues:

I

THE CA ERRED WHEN IT HELD THAT PETITIONER'S RELIANCE ON THE CASE OF *REPUBLIC V. T.A.N. PROPERTIES, INC.* IS UNAVAILING;

[11] 578 Phil. 441 (2008).

II

THE CA ERRED WHEN IT HELD THAT THE FAILURE OF SENIOR ADMINISTRATIVE ASSISTANT I BENILDA S. LIWANAG TO ROUTE THE COPY OF THE MTCC DECISION, DATED MAY 12, 2008, TO THE ASSOCIATE SOLICITOR COULD NOT BE CONSIDERED EXCUSABLE NEGLIGENCE; AND

III

THE CA ERRED WHEN IT HELD THAT PETITIONER'S PLEA FOR RELIEF FROM JUDGMENT BEFORE THE TRIAL COURT IS UNFOUNDED.[12]

The Court's Ruling

The petition is partly meritorious.

Failure to route a copy of the decision by the OSG staff to the assigned counsel is NOT excusable negligence

Section 1, Rule 38 of the 1997 Rules of Civil Procedure provides that a petition for relief from judgment may be filed on the ground of fraud, accident, mistake, or excusable negligence.[13] Such petition is an equitable remedy and is allowed only in exceptional cases.[14]

In case the petition for relief is filed to set aside a judgment on the ground of excusable negligence, the negligence must be so gross, that ordinary diligence and prudence could not have guarded against it. This is to prevent parties from reviving the right to appeal already lost through inexcusable negligence.[15]

In the present case, petitioner argues that Liwanag's failure to route the copy of the MTCC Decision to the assigned Associate Solicitor is excusable negligence.

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[12] *Rollo*, p. 14.

[13] **Section 1**. *Petition for relief from judgment, order or other proceedings.* — When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside.

[14] *Insular Life Savings & Trust Company v. Sps. Runes*, 479 Phil. 995, 1004 (2004).

[15] *Madarang v. Sps. Morales*, 735 Phil. 632, 644 (2014).

We do not agree.

It must be emphasized that this is not the first time that the Republic has failed to timely file a notice of appeal and the OSG claims excusable negligence of its staff in giving a copy of a decision to the assigned Associate Solicitor. In fact, petitioner cites the case of *Heirs of the Late Luzuriaga v. Republic of the Phils.*[16] wherein "[t]he Republic ascribes its failure to file a timely notice of appeal or a petition for relief from judgment on the negligence of the OSG person — in charge of receiving all pleadings assigned to Asst. Solicitor Josefina C. Castillo — who belatedly gave the copy of the RTC decision to the latter due to oversight. The Republic prays for the relaxation of the rigid application of the Rules based on the merits of its petition for relief from judgment."[17] In granting the relief asked by the Republic, the Court did not categorically rule that the negligence of the OSG personnel was an excusable negligence as defined under Rule 38. The relief was allowed only because there were certain attending facts and circumstances that made for an exceptional case.

Here, the CA is correct in holding that the failure of Liwanag to route a copy of the MTCC Decision to the assigned counsel cannot be considered as excusable negligence. Such oversight could have been guarded by ordinary diligence had Liwanag and her division have a systematic way of managing the documents received by their office. Liwanag's claim of being the only person who handles incoming documents is not a valid excuse to relieve the OSG of its responsibility to protect the interests of the State. There is an apparent defect in the document management system of the OSG which renders it inefficient in its handling of cases.

It is high time for the OSG to review its processing and management of documents in order to avert similar situations that cause unfortunate predicaments to the Republic. The OSG is the law office of the government[18] and, as such, it must also observe the standards required of lawyers engaged in private practice in the discharge of their duties to their clients. In *Balgami v. Court of Appeals*,[19] the Court held that the law office is mandated to adopt and arrange matters in order to ensure that official or judicial communications sent by mail would reach the lawyer assigned to the case. We do not see any reason why We cannot require the same from the OSG to ensure that official communications would promptly reach

[16] 609 Phil. 84 (2009).
[17] Id. at 96.
[18] ADMINISTRATIVE CODE (1987), Book IV, Title III, Chapter 12, Sec. 34.
[19] 487 Phil. 102 (2004).

the Solicitor or counsel in charge of the case. This is clearly part of the ethical duties of the OSG, as counsel of its client, the Republic. This duty is "rendered even more exacting as to them because, as government counsel, they have the added duty to abide by the policy of the State to promote a high standard of ethics in public service. Furthermore, it is incumbent upon the OSG, as part of the government bureaucracy, to perform and discharge its duties with the highest degree of professionalism, intelligence and skill and to extend prompt, courteous and adequate service to the public."[20]

In this way, we can also prevent passing on the burden to the courts who turns a blind eye on its own rules in order to salvage the interests of the Republic, which is the foremost duty of the OSG.

Although we recognize that the Court was firm in many cases that negligence of a counsel's secretary is tantamount to negligence of counsel,[21] the Court excepts this case from the said rule in the interest of justice, to avert a grave miscarriage of justice to the State through the negligence of the OSG.[22] This is not to tolerate the OSG's lack of reliable system in its receipt of documents and in the tracking of status of cases, but the exceptional circumstances in this case calls for relaxation of the rules.

Respondents failed to prove their title over the subject land.

A review of the records shows that respondents failed to discharge their burden of proving title over the subject land.

Judicial confirmation of title requires:

> 1. That the applicant is a Filipino citizen;
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> 2. That the applicant, by himself or through his predecessors-in-interest, has been in open, continuous, exclusive and notorious possession and occupation of the property since June 12, 1945; and
>
> 3. That the property had been declared alienable

[20] *Far Eastern Shipping Co. v. Court of Appeals,* 357 Phil. 703, 723 (1998).
[21] *Gutierrez v. Atty. Zulueta,* 265 Phil. 555 (1990), *Cathay Pacific Airways v. Spouses Fuentebella,* 514 Phil. 291 (2005).
[22] *Republic of the Phils. v. Peralta,* 452 Phil. 448, 460 (2003).

and disposable as of the filing of the application.[23]

First, respondents failed to establish that they have been in possession of the subject land, either personally or through their predecessors-in-interest, openly, continuously and exclusively, since June 12, 1945.

Respondent applicant Francisco Amarra testified that they acquired their title through their predecessors-in-interest, spouses Adriano and Celestina Agno *(Spouses Agno)*, who owned and possessed the property since 1975. Respondents bought the property from Spouses Agno in 1989.[24]

Another witness, Maria Ardid, who was 75 years old at the time of her testimony, is the niece of Escolastico Ardid who was allegedly a hired worker for more than (30) years on the subject lot. Ardid attests that when she came to the age of reason, she knew for a fact that the subject property was owned and possessed by Fructuso Culiat; and when the latter died without issue, it was inherited by his sister Josefa Agno, the mother of Adriano Agno from whom respondents acquired their title.[25]

We, however, note that these are mere assertions from witness Ardid's memory. Ardid is personally incompetent to testify on the transfer of properties through inheritance as she was not a party to any transaction between the alleged owners/possessors. Ardid's "age of reason" was not qualified, thus, we cannot determine whether this was prior to June 12, 1945. She was not even the actual hired worker of Fructuso Culiat or Josefa Agno. Simply put, her testimony is mere hearsay. Neither any of the Agno's was presented who could have attested to the fact of succession and inheritance of the subject property, or any other corroborating evidence.

Documentary evidence presented by respondents consists of tax declarations; however, the earliest date of these tax declarations was 1974.[26] No other documentary evidence was presented to prove possession or *bona fide* claim of ownership prior to 1974. Furthermore, as noted by petitioner, respondents, and even the trial court, failed to explain the notation on the 1987 Tax Declaration[27] that indicates Josue Alido and Pedro Perez as previous owners of the subject land.

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[23] *Republic of the Phils. v. Tan,* 780 Phil. 764, 772-773 (2016).
[24] *Rollo*, p. 82.
[25] Id. at 83.
[26] Id. at 84.
[27] CA *rollo*, p. 87.

Thus, there was no clear indication whether possession can be traced back to June 12, 1945. Accordingly, we find that respondents failed to establish the requisite length of possession of the predecessors-in-interest that could be tacked to them.

We have ruled that "[t]he applicant for judicial confirmation of imperfect title must trace his possession of the subject land to June 12, 1945, or earlier. Any length of possession that does not comply with the requirement cannot support the application, which must be then dismissed for failure to comply with Commonwealth Act No. 141 *(Public Land Act)* and Presidential Decree No. 1529 *(Property Registration Decree).*"[28] We should stress that only the title of those who had possessed and occupied alienable and disposable lands of the public domain within the requisite period could be judicially confirmed.[29]

Second, we find that the evidence adduced by respondents to prove that the property had been declared alienable and disposable was also insufficient. Although there was a CENRO Certification,[30] showing that the subject land is within the alienable and disposable zone, respondents failed to present a copy of the original classification approved by the DENR Secretary.

The Court has recognized in numerous cases the authority of the DENR Secretary to classify agricultural lands of the public domain as alienable and disposable lands of the public domain.[31] Although we agree with the CA that the CENRO is authorized to issue certifications of land classification status of areas below fifty (50) hectares,[32] the same is not enough proof of alienability and disposability, as we have repeatedly ruled that the evidence required in establishing that the land subject of an application for registration is alienable and disposable are: (1) CENRO or PENRO Certification; and (2) a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records.[33]

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[28] *Republic of the Phils. v. Bautista, Jr.,* 788 Phil. 347, 349 (2016).
[29] Id. at 353.
[30] CA *rollo*, p. 85.
[31] *In Re: Dumo v. Republic of the Phils.*, G.R. No. 218269, June 6, 2018.
[32] DENR Administrative Order No. 38, Series of 1990, Subject: Revised Regulations on the Delineation of Functions and Delegation of Authorities, <http://policy.denr.gov.ph/1990/DENR_DAO_1990-38.pdf> last visited September 9, 2009.
[33] *Republic of the Phils. v. Heirs of Juan Fabio*, 595 Phil. 664, 687 (2008), *Republic of the Phils. v. Medida,* 692 Phil. 454, 465 (2012), *Republic of the Phils. v. Santos,* 735 Phil. 166, 171-172 (2014), *Republic of the Phils. v. Spouses Castuera,* 750 Phil. 884, 889 (2015), *Republic of the Phils. v. Apritado,* G.R. No. 198608, February 20, 2019.

Notwithstanding that this case was tried and decided by the lower court before the stringent rule was imposed on June 26, 2008, in *Republic of the Phils. v. T.A.N. Properties, Inc.*,[34] the exception in *Republic v. Vega*[35] *(Vega)* cannot be applied in this case. In *Vega*, the Court ruled that there was substantial compliance with the requirement to show that the subject land was indeed alienable and disposable, considering that apart from the Investigation Report and testimonies of Special Investigator Gonzales from CENRO, the applicants also presented a subdivision plan approved by the DENR which expressly indicated that the subject land was alienable and disposable. In this case, respondents merely relied on the CENRO Certification and the testimony of Forester I Loida Maglinao, who issued it.

Nevertheless, even if we rule that there is substantial compliance as to the certification of the subject land as alienable and disposable, still, the totality of the evidence falls short of the required burden to prove respondents' title over the subject land.

Our Constitution, no less, embodies the Regalian doctrine that all lands of the public domain belong to the State, which is the source of any asserted right to ownership of land. The courts are then empowered, as we are duty-bound, to ensure that such ownership of the State is duly protected by the proper observance by parties of the rules and requirements on land registration.[36]

WHEREFORE, premises considered, the petition is hereby **GRANTED.** The Decision and Resolution of the Court of Appeals in CA-G.R. No. SP No. 113911 are **REVERSED** and **SET ASIDE**. Accordingly, the Land Registration Authority and the Register of Deeds of Batangas City are ordered to **CANCEL** Decree of Registration No. N-231725 and the corresponding Original Certificate of Title No. 2010000031.

The letter dated May 3, 2018 of Joseph D. Mercado, Clerk of Court, Municipal Trial Court in Cities, Branch 2, Batangas City, in compliance with the Resolution dated July 13, 2016, transmitting the records of LRC Case No. 2007-166 consisting of 288 pages excluding the index of exhibits and transcript of stenographic notes dated October 3, 2007, October 24, 2007 and December 5, 2007, is **NOTED**.

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[34] Supra note 11.
[35] 654 Phil. 511 (2011).
[36] *Republic of the Phils. v. Medida,* 692 Phil. 454, 468 (2012).

SO ORDERED." ***Perlas-Bernabe, J.,*** *on Official Business;* ***Gesmundo, J.,*** *designated as Acting Working Chairperson per Special Order No. 2717 dated October 10, 2019;* ***Zalameda, J.,*** *designated as Additional Member per Special Order No. 2712 dated September 27, 2019.*

Very truly yours,

LIBRADA C. BUENA
Division Clerk of Court
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The Presiding Judge
Municipal Trial Court in Cities, Branch 2
Batangas City
(LRC Case No. 2007-166)

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