Republic of the Philippines
SUPREME COURT
Manila

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
MAR 07 2018

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES,
Petitioner,

- versus -

CLARO YAP,
Respondent.

G.R. No. 231116

Present:

VELASCO, JR., *J.*, Chairperson,
BERSAMIN,
LEONEN,
MARTIRES,* and
GESMUNDO, *JJ.*

Promulgated:

February 7, 2018

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DECISION

VELASCO, JR., *J.*:

Nature of the Case

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the March 16, 2017 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 05491. The CA affirmed the October 20, 2011 Decision[2] of the Regional Trial Court (RTC) of Cebu City, Branch 6, granting respondent's petition for registration of a parcel of land located in Carcar, Cebu.

The Facts

On July 28, 2010, respondent Claro Yap (Yap) filed a petition[3] for cancellation and re-issuance of Decree No. 99500 covering Lot No. 922 of the Carcar Cadastre, and for the issuance of the corresponding Original Certificate of Title (OCT) pursuant to the re-issued decree. His petition alleged the following:

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* On leave.

[1] Penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Edgardo L. Delos Santos and Geraldine C. Fiel-Macaraig; *rollo*, pp. 48-53.

[2] Penned by Judge Ester M. Veloso; id. at 54-56.

[3] Entitled "Petition for the Re-issuance of a Decree and for the Issuance of Original Certificate of Title"; id. at 57-64.

1. Lot No. 922 with an area of thirty four (34) square meters is covered by Decree No. 99500 issued on November 29, 1920 in the name of Andres Abellana, as Administrator of the Estate of Juan Rodriguez;

2. Ownership over Lot No. 922 was vested upon Yap by virtue of inheritance and donation and that he and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession of the said lot since June 12, 1945, or earlier, and/or by acquisitive prescription being possessors in good faith in the concept of an owner for more than thirty (30) years;

3. While a valid decree was issued for Lot No. 922, based on the certification from the Register of Deeds of the Province of Cebu, there is no showing or proof that an OCT was ever issued covering the said lot;

4. Lot No. 922 was registered for taxation purposes in the name of Heirs of Porfirio Yap; and

5. There is no mortgage or encumbrance of any kind affecting Lot No. 922, or any other person having any interest therein, legal or equitable, in possession, reversion or expectancy, other than Yap.[4]

Finding the petition sufficient in form and substance, the RTC issued an Order[5] dated August 3, 2010 setting the case for hearing on August 3, 2011 and ordering the requisite publication thereof. Since no oppositors appeared before the court during the said scheduled hearing, the RTC issued another Order[6] setting the case for hearing on petitioner's presentation of evidence.

During the *ex parte* hearing held on August 8, 2011, Yap presented the following documents, among others, as proof of his claim:

1. Certified true copy of Decree No. 99500 issued by the authorized officer of the Land Registration Authority (LRA);[7]
2. Index of decree showing that Decree No. 99500 was issued for Lot No. 922;[8]
3. Certification from the Register of Deeds of Cebu that no certificate of title covering Lot No. 922, Cad. 30 has been issued;[9]
4. Extrajudicial Settlement of the Estate of the Late Porfirio C. Yap with Deed of Donation;[10]
5. Certification from the Office of the City Assessor of Carcar indicating that the heirs of Porfirio Yap had been issued Tax Declarations for Lot No. 922 since 1948;

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[4] Id. at 57-61.
[5] Id. at 79.
[6] Id. at 80-81.
[7] Id. at 66-67.
[8] Id. at 65.
[9] Id. at 71.
[10] Id. at 68-70.

6. Tax Declarations covering Lot No. 922 from 1948 up to 2002;[11]
7. Blueprint of the approved consolidation and subdivision plan; and
8. Certification from Community Environment and Natural Resources Office (CENRO), Cebu City stating that there is no existing public land application for Lot No. 922.[12]

In its September 20, 2011 Order,[13] the RTC admitted petitioner's evidence and deemed the case submitted for decision.

RTC Ruling

The RTC found that Yap had sufficiently established his claims and was able to prove his ownership and possession over Lot No. 922. As such, it granted the petition and ordered the Register of Deeds of the Province of Cebu to cancel Decree No. 99500, re-issue a new copy thereof, and on the basis of such new copy, issue an Original Certificate of Title in the name of Andres Abellana, as administrator of the Estate of Juan Rodriguez. The dispositive portion of the October 20, 2011 Decision states:

> **WHEREFORE**, the court grants the petition in favor of the petitioner Claro Yap. The Land Registration Authority thru the Register of Deeds of the Province of Cebu is hereby directed to cancel Decree No. 99500 issued on November 29, 1920 and to re-issue a new copy thereof in the name of Andres Abellana, as Administrator of the Estate of Juan Rodriguez, and on the bases of the new copy of Decree No. 99500, to issue an Original Certificate of Title covering Lot No. [922] in the name of Andres Abellana, as administrator of the Estate of Juan Rodriguez.
>
> Further, the Register of Deeds is directed to furnish the petitioner, Claro Yap, with the re-issued copy of Decree No. 99500 and the copy of its title upon payment of any appropriate fees.
>
> **SO ORDERED**.[14]

Since the order of the RTC was for the re-issuance of the decree under the name of its original adjudicate, Yap filed a Partial Motion for Reconsideration[15] stating that the new decree and OCT should be issued under his name instead of Andres Abellana.

On the other hand, petitioner, through the Office of the Solicitor General (OSG), filed its Comment[16] mainly arguing that Yap's petition and motion should be denied since the Republic was not furnished with copies thereof.

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[11] Tax Declaration for the year 2002 was attached to the petition; id. at 72-73.
[12] Id. at 87-97.
[13] Id. at 99.
[14] Id. at 55-56.
[15] Id. at 100-102.
[16] Id. at 110-115.

In its Joint Order[17] dated August 26, 2014, the RTC denied Yap's motion ruling that the law provides that the decree, which would be the basis for the issuance of the OCT, should be issued under the name of the original adjudicate. Likewise, the RTC also denied the OSG's motion finding that the records of the case show that it was furnished with copies of the Petition as well as the Partial Motion for Reconsideration.[18]

The OSG then interposed an appeal before the CA arguing that Yap's petition should have been denied due to insufficiency of evidence and failure to implead indispensable parties such as the heirs of Juan Rodriguez and/or Andres Abellana.

CA Ruling

In its March 16, 2017 Decision, the CA upheld the RTC's ruling finding that the pieces of evidence submitted by Yap were sufficient to support the petition. It ruled that since it has been established that no certification of title or patent had been issued over Lot No. 922, the RTC did not err in ordering the re-issuance of Decree No. 99500 in the name of Andres Abellana, as Administrator of the Estate of Juan Rodriguez.[19]

As regards the OSG's argument on non-joinder of indispensable parties, the CA highlighted that it is not a ground for dismissal of an action. Nevertheless, it ruled that the heirs of either Andres Abellana or Juan Rodriguez were not deprived of the opportunity to be heard as the proceeding before the RTC was an *in rem* proceeding. Thus, when the petition was published, all persons including the said heirs were deemed notified.[20]

Lastly, while the CA delved into the issues ventilated by the OSG on appeal, it also noted that it was too late to raise the same due to the latter's failure to file a motion for reconsideration of the RTC's decision or submit a comment on the merits of Yap's Partial Motion for Reconsideration.[21] The dispositive portion of the CA decision reads:

> WHEREFORE, the appeal is DENIED. The assailed Decision dated October 20, 2011 of the Regional Trial Court, Branch 06, Cebu City, in LRC REC. NO. Lot No. 922, Cad. 30, Carcar City, Cebu, is hereby AFFIRMED *in toto*.
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> SO ORDERED.[22]

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[17] Id. at 116-117.
[18] Id. at 121-124.
[19] Id. at 50-51.
[20] Id. at 51.
[21] Id.
[22] Id. at 53.

Thus, the OSG filed the instant petition raising essentially the same arguments but this time also advancing the theory that Yap's action had already prescribed.

The Issue

The principal issue before this Court is whether or not the RTC correctly ordered the cancellation of Decree No. 99500, the re-issuance thereof, and the issuance of the corresponding Original Certificate of Title covering Lot No. 922.

The Court's Ruling

We deny the petition.

At the threshold, settled is the rule that prescription cannot be raised for the first time on appeal;[23] the general rule being that the appellate court is not authorized to consider and resolve any question not properly raised in the courts below.[24]

In any event, prescription does not lie in the instant case.

There is nothing in the law that limits the period within which the court may order or issue a decree

The OSG now postulates that the petition should be denied due to Yap and his predecessors' failure to file the proper motion to execute Decree No. 99500 as prescribed under Section 6, Rule 39 of the Rules of Court.[25] It also subscribes that the petition is now barred by the statute of limitations[26] since nine (9) decades had already passed after the issuance of the said decree in November 1920 without any action brought upon by Yap or his predecessors-in-interest.[27]

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[23] *J. M. Tuazon & Co., Inc. v. Macalindong*, No. L-15398, December 29, 1962; *Villanueva v. Court of Appeals*, G.R. No. 143286. April 14, 2004.

[24] *Ramos v. Osorio*, G.R. No. 27306, April 29, 1971, 38 SCRA 469.

[25] Section 6. Execution by motion or by independent action. — A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

[26] Article 1144 of the Civil Code provides:

The following actions must be brought within ten years from the time the right of action accrues:

(1) Upon a written contract;

(2) Upon an obligation created by law;

(3) **Upon a judgment** (Emphasis supplied).

[27] *Rollo*, p. 26.

Further, the OSG asseverates that there is no proof that Decree No. 99500 has attained finality and the decision granting the issuance thereof was not appealed or modified.

The foregoing arguments are specious.

Decree No. 99500 covering Lot No. 922 had been issued on November 29, 1920 by the Court of First Instance, Province of Cebu pursuant to the court's decision in Cadastral Case No. 1, GLRO Cadastral Record No. 58.[28] The issuance of the said decree creates a strong presumption that the decision in Cadastral Case No. 1 had become final and executory. Thus, it is incumbent upon the OSG to prove otherwise. However, no evidence was presented to support its claims that the decision in Cadastral Case No. 1 and the issuance of Decree No. 99500 had not attained finality.

The fact that the ownership over Lot No. 922 had been confirmed by judicial declaration several decades ago does not, however, give room for the application of the statute of limitations or laches, nor bars an application for the re-issuance of the corresponding decree.

In the landmark case of *Sta. Ana v. Menla*,[29] the Court elucidated the *raison d'etre* why the statue of limitations and Section 6, Rule 39 of the Rules of Court do not apply in land registration proceedings, viz:

> 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, which may be enforced within 5 years by motion, and after five years but within 10 years, by an action (Sec. 6, Rule 39.) This provision of the Rules refers to civil actions and is not applicable to special proceedings, such as a land registration case. This is so because a party in a civil action must immediately enforce a judgment that is secured as against the adverse party, and his failure to act to enforce the same within a reasonable time as provided in the Rules makes the decision unenforceable against the losing party. **In special proceedings the purpose is to establish a status, condition or fact; in land registration proceedings, the ownership by a person of a parcel of land is sought to be established. After the ownership has been proved and confirmed by judicial declaration, no further proceeding to enforce said ownership is necessary, except when the adverse or losing party had been in possession of the land and the winning party desires to oust him therefrom.**
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> Furthermore, there is no provision in the Land Registration Act similar to Sec. 6, Rule 39, regarding the execution of a judgment in a civil action, except the proceedings to place the winner in possession by virtue of a writ of possession. The decision in a land registration case, unless the

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[28] As stated in Decree No. 99500; id. at 66-67.
[29] No. L-15564, April 29, 1961, 1 SCRA 1297.

adverse or losing party is in possession, becomes final without any further action, upon the expiration of the period for perfecting an appeal.

The third assignment of error is as follows:

THAT THE LOWER COURT ERRED IN ORDERING THE ISSUANCE OF A DECREE OF REGISTRATION IN THE NAMES OF THE OPPOSITORS-APPELLEES BASED ON A DECISION WHICH HAS ALLEGEDLY NOT YET BECOME FINAL, AND IN ANY CASE ON A DECISION THAT HAS BEEN BARRED BY THE STATUTE OF LIMITATIONS.

We also find no merit in the above contention. **There is nothing in the law that limits the period within which the court may order or issue a decree. The reason is what is stated in the consideration of the second assignment error, that the judgment is merely declaratory in character and does not need to be asserted or enforced against the adverse party**. Furthermore, the issuance of a decree is a ministerial duty both of the judge and of the Land Registration Commission; failure of the court or of the clerk to issue the decree for the reason that no motion therefore has been filed cannot prejudice the owner, or the person in whom the land is ordered to be registered. (Emphasis supplied)

The foregoing pronouncements were echoed in *Heirs of Cristobal Marcos v. de Banuvar*[30] and reiterated by the Court in the more recent *Ting v. Heirs of Diego Lirio*[31] wherein We ruled that a final judgment confirming land title and ordering its registration constitutes *res judicata* against the whole world and the adjudicate need not file a motion to execute the same, thus:

In a registration proceeding instituted for the registration of a private land, with or without opposition, the judgment of the court confirming the title of the applicant or oppositor, as the case may be, and ordering its registration in his name constitutes, when final, *res judicata* against the whole world. It becomes final when no appeal within the reglementary period is taken from a judgment of confirmation and registration.

The land registration proceedings being *in rem*, the land registration court's approval in LRC No. N-983 of spouses Diego Lirio and Flora Atienza's application for registration of the lot settled its ownership, and is binding on the whole world including petitioner.

x x x x

The December 10, 1976 decision became "extinct" in light of the failure of respondents and/or of their predecessors-in-interest to execute the same within the prescriptive period, the same does not lie.

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[30] No. L-22110, September 28, 1968, 25 SCRA 316.
[31] G.R. No. 168913,March 14, 2007.

For the past decades, the *Sta. Ana* doctrine on the inapplicability of the rules on prescription and laches to land registration cases has been repeatedly affirmed. Clearly, the peculiar procedure provided in the Property Registration Law[32] from the time decisions in land registration cases become final is complete in itself and does not need to be filled in. From another perspective, the judgment does not have to be executed by motion or enforced by action within the purview of Rule 39 of the 1997 Rules of Civil Procedure.[33]

The propriety of cancellation and re-issuance of Decree No. 99500, to serve as basis for the issuance of an OCT covering Lot No. 922, had been sufficiently proven in the instant case

The OSG maintains that even assuming that Yap's petition is not barred by the statute of limitations, the re-issuance of Decree No. 99500 is still improper due to the total lack of evidence presented before the court.[34]

We disagree.

At the outset, the Court need not belabor itself by enumerating and discussing in detail, yet again, the pieces of evidence proffered in the instant case. This matter had already been passed upon and settled by the courts *a quo* and it is not our function to analyze or weigh evidence all over again. Yet, even if We take a second look at the facts of the case, the Court is still inclined to deny the petition.

Records show that Yap sufficiently established that Decree No. 99500 was issued on November 29, 1920 in the name of Andres Abellana, as Administrator of the Estate of Juan Rodriguez. Further, it was also proven during the proceedings before the court that no OCT was ever issued covering the said lot. In this regard, Section 39 of Presidential Decree No. 1529[35] or the "Property Registration Decree" provides that the original certificate of title shall be a true copy of the decree of registration. There is,

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[32] Presidential Decree No. 1529, entitled "Amending and Codifying the Laws Relative to Registration of Property and for Other Purposes."

[33] *Republic v. Nillas*, G.R. No. 159595, January 23, 2007.

[34] *Rollo*, p. 33.

[35] Section 39. Preparation of decree and Certificate of Title. After the judgment directing the registration of title to land has become final, the court shall, within fifteen days from entry of judgment, issue an order directing the Commissioner to issue the corresponding decree of registration and certificate of title. The clerk of court shall send, within fifteen days from entry of judgment, certified copies of the judgment and of the order of the court directing the Commissioner to issue the corresponding decree of registration and certificate of title, and a certificate stating that the decision has not been amended, reconsidered, nor appealed, and has become final. Thereupon, the Commissioner shall cause to be prepared the decree of registration as well as the original and duplicate of the corresponding original certificate of title. The original certificate of title shall be a true copy of the decree of registration. The decree of registration shall be signed by the Commissioner, entered and filed in the Land Registration Commission. The original of the original certificate of title shall also be signed by the Commissioner and shall be sent, together with the owner's duplicate certificate, to the Register of Deeds of the city or province where the property is situated for entry in his registration book.

therefore, a need to cancel the old decree and a new one issued in order for the decree and the OCT to be exact replicas of each other.

In *Republic v. Heirs of Sanchez*,[36] the Court enunciated the necessity of the petition for cancellation of the old decree and its re-issuance, if no OCT had been issued pursuant to the old decree:

> ***1. Under the premises, the correct proceeding is a petition for cancellation of the old decree, re-issuance of decree and for issuance of OCT pursuant to that re-issued decree.***
>
> In the landmark decision of *Teofilo Cacho vs. Court of Appeals, et al., G.R. No. 123361, March 3, 1997*, our Supreme Court had affirmed the efficacy of filing a petition for cancellation of the old decree; the reissuance of such decree and the issuance of OCT corresponding to that reissued decree.
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> > "Thus, petitioner filed an omnibus motion for leave of court to file and to admit amended petition, but this was denied. Petitioner elevated the matter to his Court (docketed as *Teofilo Cacho vs. Hon. Manindiara P. Mangotara*, G.R. No. 85495) but we resolved to remand the case to the lower court, ordering the latter to accept the amended petition and to hear it as one for **re-issuance of decree** under the following guidelines:
> >
> > > Considering the doctrines in *Sta. Ana vs. Menla*, 1 SCRA 1297 (1961) and *Heirs of Cristobal Marcos vs. de Banuvar*, 25 SCRA 315 [1968], and the lower court findings that the decrees had in fact been issued, the omnibus motion should have been heard as a motion to re-issue the decrees in order to have a basis for the issuance of the titles and the respondents being heard in their opposition.
> > >
> > > Considering the foregoing, we resolve to order the lower court to accept the amended petition subject to the private respondent's being given the opportunity to answer and to present their defenses. The evidence already on record shall be allowed to stand but opportunity to controvert existing evidence shall be given the parties."
>
> Following the principle laid down in the above-quoted case, a question may be asked: Why should a decree be canceled and re-issued when the same is valid and intact? Within the context of this discussion, there is no dispute that a decree has been validly issued. And in fact, in some instances, a copy of such decree is intact. What is not known is whether or not an OCT is issued pursuant to that decree. If such decree is valid, why is there a need to have it cancelled and re-issued?
>
> Again, we invite you back to the highlighted provision of Section 39 of PD 1529 which states that: **"The original certificate of title shall be a true copy of the decree of registration."** This provision is significant because it contemplates an OCT which is an exact replica of the decree. If the old decree will not be canceled and no new decree

[36] G.R. No. 212388, December 10, 2014.

> issued, the corresponding OCT issued today will bear the signature of the present Administrator while the decree upon which it was based shall bear the signature of the past Administrator. This is not consistent with the clear intention of the law which states that the OCT ***shall be true copy of the decree of registration***. Ostensibly, therefore, the cancellation of the old decree and the issuance of a new one is necessary.
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> x x x x
>
> ***4. The heirs of the original adjudicate may file the petition in representation of the decedent and the re-issued decree shall still be under the name of the original adjudicate.***
>
> It is a well settled rule that succession operates upon the death of the decedent. The heirs shall then succeed into the shoes of the decedent. The heirs shall have the legal interest in the property, thus, they cannot be prohibited from filing the necessary petition.
>
> As the term connotes, a mere re-issuance of the decree means that the new decree shall be issued which shall, in all respects, be the same as that of the original decree. Nothing in the said decree shall be amended nor modified; hence, it must be under the name of the original adjudicate. (Emphasis and underscoring in the original)

Based from the foregoing, the RTC correctly ordered the cancellation of Decree No. 99500, the re-issuance thereof, and the issuance of the corresponding OCT covering Lot No. 922 in the name of its original adjudicate, Andres Abellana, as Administrator of the Estate of Juan Rodriguez.

Verily, this Court sees no reason to overturn the factual findings and the ruling of the CA. Petitioner failed to show that the CA's decision was arbitrarily made or that evidence on record was disregarded.

IN VIEW OF THE FOREGOING, the petition is **DENIED**. The Decision dated March 16, 2017 of the Court of Appeals in CA-G.R. CV No. 05491 is hereby **AFFIRMED**.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

(On Leave)
SAMUEL R. MARTIRES
Associate Justice

ALEXANDER G. GESMUNDO
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

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.

MARIA LOURDES P. A. SERENO
Chief Justice

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Division Clerk of Court
Third Division
MAR 07 2018