



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**TAGUMPAY REALTY
CORPORATION,**

Petitioner,

G.R. No. 250486

Present:

- versus -

CAGUIOA, J.,*
INTING,**
DIMAAMPAO,**
GAERLAN, and
SINGH, JJ.

**EMPIRE EAST LAND
HOLDINGS, INC.,**

Respondent.

Promulgated:

July 26, 2023

Michael C. Batt

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DECISION

SINGH, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed by petitioner Tagumpay Realty Corporation (**Tagumpay Realty**) seeking to set aside the Decision,² dated April 11, 2019, and Resolution,³ dated October 28, 2019, of the Court of Appeals (CA) in CA-G.R. SP No. 158552. The CA affirmed the Order,⁴ dated July 30, 2018, and

* On leave.

** On Official Business.

*** Acting Chairperson.

¹ *Rollo*, pp. 3-20.

² *Id.* at 27-34. Penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Romeo F. Barza and Jhosep Y. Lopez (now a Member of the Court).

³ *Id.* at 36-37.

⁴ *Id.* at 170-171. Penned by Acting Presiding Judge Frank E. Lobrigo.

Order,⁵ dated September 3, 2018, of the Regional Trial Court, Branch 160, Pasig City (San Juan City Station) (RTC) in LRC Case No. R-8012, which dismissed without prejudice Tagumpay Realty's petition for its failure to comply with the second paragraph of Section 108 of Presidential Decree (P.D.) No. 1529, otherwise known as the "Property Registration Decree."⁶

The Facts

On February 9, 2012, a condominium unit with parking (**subject property**), covered by Condominium Certificate of Title (CCT) No. 5903-R and registered under the name of respondent Empire East Land Holdings, Inc. (**Empire East**), was sold at a public auction of tax delinquent properties conducted at the Multi-Purpose Hall of San Juan City. Tagumpay Realty emerged as the highest bidder and was issued a Certificate of Sale of Delinquent Property, which was annotated on CCT No. 5903-R. After the lapse of one year from the date of sale without Empire East exercising its right to redeem the subject property, title over the subject property was consolidated. Accordingly, on May 8, 2013, a Deed of Conveyance was issued in favor of Tagumpay Realty.⁷

Consequently, Tagumpay Realty became entitled to the issuance of a new CCT in its name. However, Empire East has not yet surrendered the duplicate copy of the CCT in its name to the Registry of Deeds of San Juan City.⁸ As a result, on November 6, 2013, Tagumpay Realty filed before the RTC, Branch 264, a Petition⁹ for the surrender of Owner's Duplicate of CCT No. 5903-R and, in case of refusal, the cancellation and the entry of a New Certificate of Title, citing Section 75 and 107 of P.D. No. 1529.

On November 23, 2015, the RTC Branch 264 granted¹⁰ the Petition:

WHEREFORE, premises considered, the petition is GRANTED. Respondent Empire Estate Land Holdings, Inc. is hereby directed to surrender its duplicate copy of CCT No. 5903-R to respondent Registrar of Deeds of San Juan City [which], in turn, is ordered to enter a new certificate or memorandum upon such surrender in favor of petitioner Tagumpay Realty Corporation. Upon failure or refusal of respondent Empire Estate Land Holdings, Inc. to do so, the Register of Deeds City of San Juan is ordered to cancel CCT No. 5903-R and issue a new one in the name of petitioner.

⁵ Id. at 172.

⁶ Entitled "AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES," approved on June 11, 1978.

⁷ *Rollo*, p. 28, CA Decision.

⁸ Id. at 29.

⁹ Id. at 69-76.

¹⁰ Id. at 109-113. Penned by Acting Presiding Judge Genie G. Gapas-Agbada.



SO ORDERED.¹¹

However, on April 7, 2016, the RTC Branch 264 referred the Petition for mediation in the Philippine Mediation Center (**PMC**), pursuant to Section 2(a), Rule 18 of the 1997 Rules of Civil Procedure and the second Revised Guidelines for the implementation of mediation proceedings. Further, the RTC Branch 264 suspended the proceedings therein for 30 days from the date thereof, extendible for another 30 days subject to the approval of the court.¹²

On June 21, 2016, the RTC Branch 264 denied Tagumpay Realty's Motion for Reconsideration of the April 7, 2016 Order.¹³ The RTC Branch 264 ruled that due to the non-joinder of the issues at the time of the presentation of Tagumpay Realty's evidence, the proceedings, and the Order admitting the evidence presented during the said hearing and submitting the case for decision are null and void.

Subsequently, Tagumpay Realty and Empire East filed their respective pleadings and motions in the proceedings below. The hearing was set on May 23, 2018.¹⁴

In the meantime, on April 26, 2018, the RTC directed¹⁵ Tagumpay Realty to show cause why its Petition should not be dismissed for non-compliance with the second paragraph of Section 108 of P.D. No. 1529, which provides that all motions and petitions shall be filed in the original proceedings which entered the decree of registration.¹⁶

The Ruling of the RTC

On July 30, 2018, the RTC dismissed the Tagumpay Realty's petition:

WHEREFORE, for failure to comply with the second paragraph of Section 108 of Presidential Decree No. 1529, the instant petition is dismissed, without prejudice.

SO ORDERED.¹⁷

¹¹ Id. at 113.

¹² Id. at 114.

¹³ Id. at 121-123.

¹⁴ Id. at 167, Notice of Hearing.

¹⁵ Id. at 168, Order.

¹⁶ Id. at 31, CA Decision.

¹⁷ Id. at 171.



The RTC reasoned that land registration proceedings are *in rem* because the decision of the land registration court attaches to the land and is binding on the whole world. A land registration court acquires jurisdiction over the *res* pursuant to Section 23 of P.D. No. 1529 and, once acquired, its jurisdiction extends to post-registration incidents such as those under Section 108 or Section 75 of P.D. No. 1529. The purpose is to prevent confusion and to avoid difficulty in tracing the origin of entries in the registry.

On September 3, 2018, the RTC denied Tagumpay Realty's Motion for Reconsideration.

The Ruling of the CA

On April 11, 2019, the CA affirmed the ruling of the RTC:

WHEREFORE, premises considered, the instant petition is **DISMISSED**. Accordingly, the July 30, 2018 and September 3, 2018 Orders of Pasig City {San Juan City Station} Regional Trial Court, Branch 160, in LRC Case No. R-8012, are hereby **AFFIRMED**.

SO ORDERED.¹⁸ (Emphasis in the original)

The CA ruled that the Petition raised questions which affect the wisdom of the decision, not the jurisdiction of the court, and is beyond the province of a Rule 65 petition. Tagumpay Realty thus failed to discharge the burden to prove grave abuse of discretion on the part of the RTC. As the dismissal of the Petition was without prejudice, Tagumpay Realty can still file another petition by complying with the requirements thereof.¹⁹

On October 28, 2019, the CA denied Tagumpay Realty's Motion for Reconsideration. Thus, the present Petition.

The Issue

Did the CA err in not finding grave abuse of discretion against the RTC when it ordered the dismissal of the Petition for its failure to comply with the second paragraph of Section 108 of P.D. No. 1529?

¹⁸ Id. at 33.

¹⁹ Id.



The Ruling of the Court

The Petition is granted.

The Petition sought to compel the surrender of duplicate certificate of title, not to amend or alter a certificate of title

Tagumpay Realty petitioned the RTC to direct Empire East to surrender its owner's duplicate CCT No. 5903-R to the Registry of Deeds of San Juan City as a result of the consolidation of title over the subject property in favor of Tagumpay Realty, as the highest bidder in the public auction. The Petition clearly alleged that, after the period to redeem the subject property expired, Empire East was divested of its ownership thereof and title was successfully transferred to Tagumpay Realty. Citing Sections 75 and 107 of P.D. No. 1529, Tagumpay Realty prayed that:

(1) respondent Empire East Land Holdings, Inc. be directed to surrender its duplicate Transfer Certificate of Title No. 5903-R to respondent Registrar of Deeds and in the event of its failure to comply with such directive, (2) respondent Registrar of Deeds be ordered to cancel Condominium Certificate of Title No. 5903-R; and to issue a new one in the name of petitioner Tagumpay Realty Corporation.²⁰

Contrary to the finding of the RTC, Tagumpay Realty's original Petition is governed by Section 75, in relation to Section 107, not Section 108, of P.D. No. 1529. The Court briefly distinguishes.

Section 107 of P.D. No. 1529 provides:

Section 107. *Surrender of withhold duplicate certificates.* Where it is necessary to issue a new certificate of title pursuant to any involuntary instrument which divests the title of the registered owner against his consent or where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner's duplicate certificate of title, the party in interest may file a petition in court to compel surrender of the same to the Register of Deeds. The court, after hearing, may order the registered owner or any person withholding the duplicate certificate to surrender the same, and direct the entry of a new certificate or memorandum upon such surrender. If the person withholding the duplicate certificate is not amenable to the process of the court, or if not any reason the outstanding owner's duplicate certificate cannot be delivered, the court may order the annulment of the same as well as the issuance of a new certificate of title in

²⁰ Id. at 72, Petition.



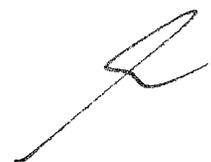
lieu thereof. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate.

On the other hand, Section 108 of P.D. No. 1529 provides:

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 or 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 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.

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.

Section 107 provides a remedy when there is a transfer of ownership of the registered property from one party to another. It applies when: (a) necessary to issue a new certificate of title pursuant to an involuntary instrument; or (b) a voluntary instrument cannot be registered because the holder of the owner's duplicate certificate of title refuses to surrender the same. In both instances, the party in interest seeks to enforce an ownership right to have the certificate of title registered.



On the other hand, Section 108 provides a remedy in cases of nominal or insubstantial changes in the certificate of title, without a change in ownership. It applies in the following cases:

- (1) that the registered interests of any description, whether vested, contingent, expectant or inchoate appearing on the certificate, have terminated and ceased; or
- (2) that new interest not appearing upon the certificate have arisen or been created; or
- (3) that an omission or error was made in entering a certificate or any memorandum thereon, or, on any duplicate certificate; or
- (4) that the same or any person on the certificate has been changed; or
- (5) 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
- (6) that a corporation which owned registered land and has been dissolved has not convened the same within three years after its dissolution; or
- (7) upon any other reasonable ground.

The Court, in *SN Aboitiz Power-Magat, Inc. v. Municipality of Alfonso Lista, Ifugao*,²¹ described the relief available in Section 108 of P.D. No. 1529 in this wise:

Such relief under said provision 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. The issues are limited to those which are so patently insubstantial as not to be genuine issues.

Proceedings under this provision are summary in nature, contemplating insertions of mistakes which are only clerical, but certainly not controversial issues.²² (Underscoring supplied; emphasis omitted)

There is thus no change of ownership status in seeking relief under Section 108 of P.D. No. 1529, unlike in Section 107, which clearly seeks to protect the rights of the person who acquired ownership over the registered property either through an involuntary instrument or a voluntary one.

²¹ 820 Phil. 928 (2017).

²² Id. at 938.



Tagumpay Realty evidently sought the surrender of the owner's duplicate of CCT No. 5903-R by Empire East to transfer the registration of the subject property in its name, and not to merely amend or alter any minor detail in the certificate of title. This calls for the application of Section 107, not Section 108, of P.D. No. 1529.

*Jurisdiction of Regional Trial Courts
as land registration courts versus
venue of action*

The RTC dismissed Tagumpay Realty's Petition on the ground that it was not filed in the original registration proceedings which entered the decree of registration for the subject real property, as provided in the second paragraph, Section 108 of P.D. No. 1529.

The dismissal is misplaced because Empire East is deemed to have waived the right to question the venue of the filing of Tagumpay Realty's Petition.

The rule in paragraph 2, Section 108 of P.D. No. 1529 refers to the venue for actions after original registration, including a petition for the surrender of the owner's duplicate certificate of title under Section 107 of P.D. No. 1529. Precisely, it has been held that the same is intended to facilitate tracing the origin of the entries in the registry:

The rule that all petitions and motions filed under the provisions of the Land Registration Act must be presented in the original registration case, was adopted with an intelligent purpose in view; to allow such petitions and motions to be filed and disposed of elsewhere would eventually lead to confusion and render it difficult to trace the origin of the entries in the registry.²³

The Court, in *Ernesto Oppen, Inc. v. Compas*,²⁴ distinguished Section 2 from Section 108 of P.D. No. 1529:

A closer scrutiny of Section 2 and Section 108 of P.D. No. 1529 will show that the former pertains to the grant of jurisdiction to regional trial courts while the latter refers to the venue where the action is to be instituted.²⁵

²³ *Cavan v. Wislizenus*, 48 Phil. 632, 636 (1926).

²⁴ 772 Phil. 191 (2015).

²⁵ *Id.* at 193.



Since Empire East failed to raise improper venue as an affirmative defense in its answer to the Petition, the same constitutes a waiver thereof. Rule 8 of the Rules of Civil Procedure provides:

Section 12. Affirmative defenses. – (a) A defendant shall raise his or her affirmative defenses in his or her answer, which shall be limited to the reasons set forth under Section 5(b), Rule 6, and the following grounds:

1. That the court has no jurisdiction over the person of the defending party;
 2. That venue is improperly laid;
 3. That the plaintiff has no legal capacity to sue;
 4. That the pleading asserting the claim states no cause of action;
- and
5. That a condition precedent for filing the claim has not been complied with.

(b) Failure to raise the affirmative defenses at the earliest opportunity shall constitute a waiver thereof.

The RTC, on the other hand, cannot *motu proprio* dismiss the Petition on the ground of failure to comply with paragraph 2, Section 108 of P.D. No. 1529 because the same does not involve lack of jurisdiction over the subject matter within the purview of Section 1, Rule 9 of the Rules of Civil Procedure. As earlier quoted, the RTC has jurisdiction to hear and decide cases involving land registration cases as provided under Section 2 of P.D. No. 1529:

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.

There is thus no legal basis to dismiss Tagumpay Realty's Petition.

Grave abuse of discretion

At any rate, the Court finds no error in the CA conclusion that the RTC is not guilty of grave abuse of discretion. Time and again, the Court had distinguished an error of jurisdiction and an error of judgment:



It is a fundamental aphorism in law that a review of facts and evidence is not the province of the extraordinary remedy of *certiorari*, which is *extra ordinem* — beyond the ambit of appeal. **In *certiorari* proceedings, judicial review does not go as far as to examine and assess the evidence of the parties and to weigh the probative value thereof. It does not include an inquiry as to the correctness of the evaluation of evidence. Any error committed in the evaluation of evidence is merely an error of judgment that cannot be remedied by *certiorari*.** An error of judgment is one which the court may commit in the exercise of its jurisdiction. An error of jurisdiction is one where the act complained of was issued by the court without or in excess of jurisdiction, or with grave abuse of discretion, which is tantamount to lack or in excess of jurisdiction and which error is correctible only by the extraordinary writ of *certiorari*. ***Certiorari* will not be issued to cure errors of the trial court in its appreciation of the evidence of the parties, or its conclusions anchored on the said findings and its conclusions of law.** It is not for this Court to re-examine conflicting evidence, re-evaluate the credibility of the witnesses or substitute the findings of fact of the court *a quo*.²⁶ (Emphasis in the original)

When the RTC dismissed Tagumpay Realty's petition, it acted well within its jurisdiction as it correctly cited *Life Homes Realty Corporation v. Court of Appeals*,²⁷ which provides:

The purpose of requiring post-registration proceedings to be filed and entitled in the original proceedings which entered the decree of registration is to prevent confusion and to avoid difficulty in tracing the origin of entries in the registry.²⁸

The RTC thus rightly concluded that Tagumpay Realty's petition should have been filed in the original proceedings which entered the decree of registration because the law clearly so provides. However, the RTC erred when it dismissed Tagumpay Realty's petition on this ground because, as earlier discussed, the ground was waived by Empire East when it failed to raise it as an affirmative defense in its responsive pleading. Such error of the RTC does not constitute grave abuse of discretion and is beyond the ambit of a petition for *certiorari* under Rule 65 of the Rules of Court.

WHEREFORE, the Petition for Review on *Certiorari* is **GRANTED**. The Decision, dated April 11, 2019, and the Resolution, dated October 28, 2019, of the Court Appeals in CA-G.R. SP No. 158552 are **REVERSED**. The Order, dated July 30, 2018, and the Order, dated September 3, 2018, of the Regional Trial Court, Branch 160, Pasig City (San Juan City Station) in LRC Case No. R-8012 are **ANNULLED**.

²⁶ *Dormido v. Office of the Ombudsman*, G.R. No. 198241, February 24, 2020, 933 SCRA 376, 381, citing *First Corporation v. Court of Appeals*, 553 Phil. 526, 540-541 (2007).

²⁷ 544 Phil. 698 (2007).

²⁸ *Rollo*, p. 171, RTC Order, dated July 30, 2018.



The case is **REMANDED** to the Regional Trial Court, Branch 160, Pasig City (San Juan City Station), which is also **DIRECTED to REINSTATE** LRC Case No. R-8012 and proceed with the reception of evidence with utmost dispatch.

SO ORDERED.



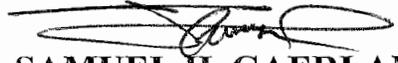
MARIA FILOMENA D. SINGH
Associate Justice

WE CONCUR:

(On leave)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

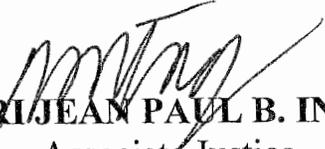


SAMUEL H. GAERLAN
Associate Justice

(On Official Business)
JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

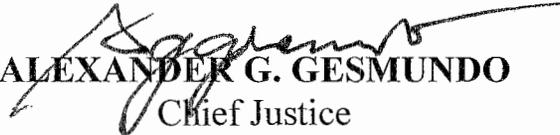
I attest that the conclusion in the above Decision had been reached in consultation before this case was assigned to the writer of the opinion of the Court's Division.



HENRI JEAN PAUL B. INTING
Associate Justice
Acting Chairperson, Third Division

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice