



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

VERGEL PAULINO AND
CIREMIA PAULINO,

G.R. No. 205065

Petitioners,

- versus -

COURT OF APPEALS AND
REPUBLIC OF THE
PHILIPPINES, represented by
the ADMINISTRATOR of the
LAND REGISTRATION
AUTHORITY,

Respondents.

X ----- X

SPOUSES DR. VERGEL L.
PAULINO & DR. CIREMIA G.
PAULINO,

G.R. No. 207533

Present:

Petitioners,

- versus -

REPUBLIC OF THE
PHILIPPINES, represented by
the ADMINISTRATOR of the
LAND REGISTRATION
AUTHORITY,

VELASCO, JR., *J., Chairperson,*
PERALTA,
VILLARAMA, JR.,^{*}
MENDOZA, and
LEONEN, *JJ.*

Promulgated:

Respondent.

June 4, 2014

X ----- X

DECISION

MENDOZA, *J.:*

These consolidated petitions assail 1] the September 24, 2012 Resolution¹ of the Court of Appeals (CA) ordering the issuance of a writ of preliminary injunction restraining the execution of the July 20, 2010

^{*} Designated Acting Member in view of the vacancy in the Third Division, per Special Order No. 1691 dated May 22, 2014.

¹ *Rollo* (G.R. No. 205065), pp. 19-26, penned by Associate Justice Ramon R. Garcia with Associate Justice Amelita G. Tolentino, and Associate Justice Danton Q. Bueser, concurring.

Decision² of the Regional Trial Court, Branch 83, Quezon City, (*RTC*), Judge Ralph Lee presiding, which ordered the reconstitution of a supposedly lost title; and 2] its March 5, 2013 Decision³ annulling the said RTC decision.

Specifically, **G.R. No. 205065** is a petition for *certiorari* under **Rule 65** of the Rules of Court seeking to annul the September 24, 2012 and December 20, 2012 Resolutions issued by the respondent CA, granting the public respondent's prayer for the issuance of a writ of preliminary injunction enjoining the RTC from enforcing and implementing its July 20, 2010 decision, which ordered the Land Registration Authority (*LRA*) to reconstitute the petitioners' certificate of title, Transfer of Certificate Title (*TCT*) No. 301617 of the Registry of Deeds of Quezon City (*QCRD*).

On the other hand, **G.R. No. 207533** is a petition for review on *certiorari* under **Rule 45** of the Rules of Court seeking to reverse and set aside the March 5, 2013 Decision and June 6, 2013 Resolution of the CA, which granted the petition for annulment and setting aside of the July 20, 2010 RTC Decision, which ordered the LRA to reconstitute petitioners' certificate of title.

The Facts:

On December 14, 2007, the late Celso Fernandez purchased, in a public auction conducted by the Quezon City government, a real property owned and registered in the name of Lolita G. Javier (*Javier*), married to Pedro Javier, as evidenced by a certificate of sale of delinquent property. The subject property appeared to be covered by an owner's duplicate of TCT No. 301617 of the QCRD.

After his death, the surviving heirs of Celso Fernandez executed an Extra-Judicial Settlement of Estate with Absolute Sale covering the subject property, selling it in favor of the petitioners, spouses Vergel L. Paulino and Ciremia Paulino (*Spouses Paulino*), for a consideration of P1,805,000.00.

On June 11, 1988, a fire broke out in the Quezon City Hall which burned a portion thereof which included the office of the QCRD.

² Id. at 60-62. Penned by Presiding Judge Ralph S. Lee.

³ *Rollo* (G.R. No. 207533), pp. 7-17.

Consequently, on March 9, 2010, Spouses Paulino filed a petition for reconstitution of the original copy of TCT No. 301617 with the RTC, alleging that its original copy was among those titles that were razed during the fire. Upon receipt, the RTC directed the publication and posting of the scheduled hearing of case. After the jurisdictional facts were established, a hearing officer was designated to receive the evidence *ex parte*.

On June 20, 2010, the RTC directed the LRA to submit a report within five (5) days from notice. **Without awaiting the LRA Report**, the RTC rendered the assailed July 20, 2010 Decision, granting the petition for reconstitution and ordering the Registrar of Deeds of the QCRD to reconstitute the original copy of TCT No. 301617. The dispositive portion of the decision reads:

WHEREFORE, the Register of Deeds for Quezon City is hereby directed to reconstitute in the files of his office the original copy of Transfer Certificate Title No. 301617 in exactly the same terms and conditions on the basis of Owner's Duplicate Certificate of said Transfer Certificate of Title No. 301617 and other available supporting documents submitted to your office and once accomplished, the said Register of Deeds is further ordered to issue new owner's duplicate copy of the said Certificate of Title after payment of the prescribed fees.

SO ORDERED.⁴

On August 16, 2010, the RTC issued the Certificate of Finality,⁵ there being no motion for reconsideration or appeal filed by any of the interested parties.

Meanwhile, on August 17, 2010, the RTC received the **LRA Report**,⁶ stating that **TCT No. 301617** was **registered in the name of a certain Emma B. Florendo (*Florendo*)** and that it was **previously the subject of an application for administrative reconstitution**. It was also **discovered that the original copy of the title on file in the Registry of Deeds was among those saved titles from the fire** that gutted the office of QCRD on June 11, 1988. In addition, when the technical description of the subject property was plotted, it was identical with Lot 939, Piedad Estate covered by TCT No. RT-55869 (42532), in the name of Magnolia W. Antonino (*Antonino*).

⁴ *Rollo* (G.R. No. 205065), p. 62.

⁵ *Id.* at 32.

⁶ *Id.* at 80-81.

On December 3, 2010, Spouses Paulino filed with the QCRD an application for registration of the judicial reconstitution of TCT No. 301617 based on the RTC decision. The Registrar of Deeds, Atty. Elbert T. Quilala (*Atty. Quilala*), and other officials of the QCRD refused to reconstitute the original copy of the TCT. Hence, Spouses Paulino filed a petition for indirect contempt. Subsequently, the RTC found Atty. Quilala guilty of indirect contempt in its Decision,⁷ dated December 2, 2011.

On July 13, 2012, respondent Republic of the Philippines, represented by the Administrator of the LRA, filed its Petition for Annulment of Judgment with Urgent Prayer for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction⁸ assailing 1] the July 20, 2010 RTC decision granting the petition for reconstitution of the original title; and 2] the December 2, 2011 RTC decision, finding the officials of the QCRD guilty of indirect contempt for failing to reconstitute TCT No. 301617.

On September 24, 2012, the CA issued the assailed resolution, granting the prayer for the issuance of a writ of preliminary injunction. The decretal portion reads:

WHEREFORE, let a Writ of Preliminary Injunction **ISSUE** enjoining public respondent Regional Trial Court, Branch 83, Quezon City, or any person acting under its authority, from enforcing and implementing the Decisions dated July 20, 2010 and December 2, 2011. The filing of a bond is not required pursuant to Section 22, Rule 141 of the Rules of Court.

SO ORDERED.⁹

Taking into account that the case was still in its completion stage and it appearing that the immediate execution and satisfaction of the assailed Decisions, dated July 20, 2010 and December 2, 2011, would probably result in manifest injustice and irreparable injury against petitioner Republic of the Philippines (now respondent LRA), the CA found merit in its prayer for the issuance of a writ of preliminary injunction. It explained that it was in the best interest of all the parties to maintain the *status quo* until it had resolved the merits of the issues raised in the petition, adding that to deny the prayer would render ineffective any judgment that may be rendered in the case.¹⁰

⁷ *Rollo* (G.R. No. 207533), pp. 115-128.

⁸ *Rollo* (G.R. No. 205065), pp. 42-59.

⁹ *Id.* at 20-21.

¹⁰ *Id.* at 20.

Spouses Paulino filed a motion for reconsideration of the said resolution, but it was denied in the assailed December 20, 2012 Resolution.

On January 17, 2013, Spouses Paulino filed the special civil action for *certiorari* under Rule 65, docketed as **G.R. No. 205065**, seeking to annul the CA resolutions, which granted the preliminary injunction, citing the commission of a grave abuse of discretion.

On March 5, 2013, the CA promulgated its decision on the merits of the petition for annulment of judgment, granting LRA's petition, thereby annulling and setting aside the RTC decisions, dated July 20, 2010 and December 2, 2011. The *fallo* reads:

WHEREFORE, premises considered, the instant Petition for Annulment of Judgment is hereby **GRANTED**. The assailed Decisions dated July 20, 2010 and December 2, 2011 of the Regional Trial Court, Branch 83, Quezon City are **ANNULLED** and **SET ASIDE**. Accordingly, the Petition for Reconstitution of Original Copy of TCT No. 301617 and the Petition for Indirect Contempt filed by private respondent spouses Vergel Paulino and Ciremia G. Paulino are **DISMISSED**.

SO ORDERED.¹¹

The CA ruled that the RTC lacked jurisdiction to order the reconstitution of the original copy of TCT No. 301617, there being no lost or destroyed title. In fact, on the basis of the LRA Report and other evidence on record, the subject lot specified on TCT No. 301617 had the same technical description and was identical to Lot 939, Piedad Estate covered by TCT No. RT-55869 (45532) in the name of Antonino, which title was already cancelled by TCT Nos. 296725 to 296728 in the name of Magnolia Antonino. Moreover, TCT No. 301617 existed but it was registered in the name of a different owner, Florendo, and pertained to a different real property located in Quirino District, Quezon City, registered in the year 1907. The records further reveal that TCT No. 301617 was previously the subject of another petition for reconstitution filed by one Lolita Javier which was also dismissed by the RTC, Branch 77, Quezon City.¹²

Spouses Paulino filed a motion for reconsideration, but it was denied by the CA in its June 6, 2013 Resolution. Consequently, they filed a petition for review on *certiorari* with this Court under Rule 45, docketed as **G.R. No. 207533**.

¹¹ *Rollo* (G.R. No. 207533), p. 17.

¹² *Id.* at 14-15.

Eventually, the Court issued a resolution ordering the consolidation of G.R. No. 207533 with G.R. No. 205065, as both cases essentially involve the same set of facts, parties and issues.

Issues and Arguments:

G.R. No. 205065

- 1. Whether the Court of Appeals committed an error of law and grave abuse of discretion amounting to lack or excess of jurisdiction.¹³**

G.R. No. 207533

- 1. Whether the Court of Appeals committed grave error of law in not dismissing the petition for annulment of judgment notwithstanding the fact that the respondent failed to resort to the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies despite opportunity to do so.**
- 2. Whether the Court of Appeals committed grave error of law when it disregarded the rule on evidence in giving credence to the Report that was lately submitted by the Land Registration Authority and obviously executed for the interest of other persons and to protect a fake and spurious title.**
- 3. Whether the Court of Appeals committed grave error of law in ruling that reconstitution of TCT No. 301617 would constitute collateral attack on the fake and spurious TCT No. RT-55869 (42532) in the name of Magnolia Antonino.**
- 4. Whether the Court of Appeals committed grave error of law in ruling that TCT NO. 301617 in the name of Lolita Javier cannot be reconstituted because TCT No. 301617 existed in the name of Emma Florendo and pertained to a different property.**

¹³ *Rollo* (G.R. No. 205065), p. 10. [not verbatim]

5. The Court of Appeals committed graver error of law when it annulled the July 20, 2010 Decision of the Regional Trial Court based on factual issues despite the fact that the Regional Trial Court of Quezon City has jurisdiction over the reconstitution and that it was proven that TCT No. 301617 existed and the same was lost.¹⁴

Considering that the annulment case in the CA was already decided and the petitions were consolidated, the Court will just treat the cases as one case as they essentially involve the same issues.

From the foregoing, it appears that the ruling of the Court hinges on the resolution of these two key issues: *first*, whether CA properly availed of Rule 47 of the 1997 Rules of Civil Procedure to assail the final RTC decision; and *second*, whether the RTC lacked jurisdiction over the petition for reconstitution.

***Procedural Issue: Propriety of Petition
for Annulment of Judgment***

Spouses Paulino argue that under Rule 47 of the 1997 Rules of Civil Procedure, it is crystal clear that annulment of judgments may only be availed of when the ordinary remedies of new trial, appeal, petition for relief, or other appropriate remedies are no longer available through no fault of the petitioner. They insist on the dismissal of the petition for annulment on the ground that the LRA is already in estoppel and not entitled to the relief prayed for because the July 20, 2010 and December 2, 2011 RTC decisions became final and executory through their fault as they failed to resort to other remedies despite opportunities to do so.

In support thereof, Spouses Paulino cite *Republic vs. Castro*,¹⁵ where the Court ruled that annulment of judgment is never resorted to as a substitute for a party's own neglect in not promptly availing of the ordinary or other appropriate remedies. In *Republic vs. TAFPA Inc.*,¹⁶ it was held that, whether through inadvertence or negligence of its deputized counsel or the OSG itself, the decision had already become final and executory and could not be annulled. To conclude otherwise would run counter to the basic principles of fair play. Besides, there would be no end to litigations if the

¹⁴ *Rollo* (G.R. No. 207533), pp. 31-32. [not verbatim]

¹⁵ G.R. No. 189724, February 7, 2011, 641 SCRA 584, 588-589.

¹⁶ G.R. No. 165333, February 9, 2010, 612 SCRA 76, 90.

parties, who unsuccessfully availed themselves of any of the appropriate remedies or lost them through their fault or inadvertence, could have unfavorable decisions annulled by simply bringing an action for annulment of judgment.

The Court finds the petitions devoid of merit.

Under Section 2 of Rule 47, the only grounds for annulment of judgment are extrinsic fraud and lack of jurisdiction. 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 case of absence, or lack, of jurisdiction, a court should not take cognizance of the case.

In these cases, the petition for annulment was based on lack of jurisdiction over the subject matter. The rule is that where there is want of jurisdiction over a subject matter, the judgment is rendered null and void. A void judgment is in legal effect no judgment, by which no rights are divested, from which no right can be obtained, which neither binds nor bars any one, and under which all acts performed and all claims flowing out are void. It is not a decision in contemplation of law and, hence, it can never become executory. It also follows that such a void judgment cannot constitute a bar to another case by reason of *res judicata*.¹⁷

Accordingly, the Court agrees with the CA that LRA was not estopped from assailing the July 20, 2011 RTC Decision because it never attained finality for being null and void, having been rendered by a court without jurisdiction over the reconstitution proceedings.

As early as the case of *Strait Times, Inc. v. CA*,¹⁸ the Court has held that when the owner's duplicate certificate of title has not been lost, but is, in fact, in the possession of another person, then **the reconstituted certificate is void**, because the court that rendered the decision had no jurisdiction. Reconstitution can be validly made only in case of loss of the original certificate.¹⁹ This rule was reiterated in the cases of *Villamayor v. Arante*,²⁰ *Rexlon Realty Group, Inc. v. Court of Appeals*,²¹ *Eastworld Motor Industries Corporation v. Skunac Corporation*,²² *Rodriguez v. Lim*,²³ *Villanueva v. Vilorio*,²⁴ and *Camitan v. Fidelity Investment Corporation*.²⁵ Thus, with

¹⁷ *Hilado v. Chavez*, 482 Phil. 104, 133 (2004).

¹⁸ 356 Phil. 217, 227-228 (1998).

¹⁹ *Feliciano v. Zaldivar*, 534 Phil. 280, 293-294 (2006).

²⁰ G.R. No. 177042, December 10, 2012, 687 SCRA 520.

²¹ 429 Phil. 31, 44 (2002).

²² 514 Phil. 605, 612-613 (2005).

²³ 538 Phil. 609, 629-630 (2006).

²⁴ 572 Phil. 183, 189 (2008).

²⁵ 574 Phil. 672, 685 (2008).

evidence that the original copy of the TCT was not lost during the conflagration that hit the Quezon City Hall and that the owner's duplicate copy of the title was actually in the possession of another, the RTC decision was null and void for lack of jurisdiction.

For the aforecited reason, the Court agrees that the public respondent correctly availed of the remedy of petition for annulment of judgment under Rule 47 without need of exhausting other ordinary remedies of new trial, appeal, petition for relief, or other appropriate remedies because the RTC judgment was null and void.

Indeed, where a petition for annulment of a judgment or a final order of the RTC filed under Rule 47 of the Rules of Court is grounded on lack of jurisdiction over the person of the respondent or over the nature or subject of the action, the petitioner need not allege in the petition that the ordinary remedy of new trial or reconsideration of the final order or judgment or appeal therefrom is no longer available through no fault of his own, precisely because the judgment rendered or the final order issued by the RTC without jurisdiction is null and void and may be assailed any time either collaterally or in a direct action or by resisting such judgment or final order in any action or proceeding whenever it is invoked, unless barred by *laches*.²⁶

***Substantive Issue: Jurisdiction of RTC
in the Reconstitution Proceedings***

The governing law for judicial reconstitution of title is R.A. No. 26. Sec. 15 thereof provides when an order for reconstitution should issue, as follows:

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 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 sued 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

²⁶ *Ancheta v. Ancheta*, 468 Phil. 900, 911 (2004).

file an application for confirmation of his or their title under the provisions of the Land Registration Act. (Emphasis and underscoring supplied)

From the foregoing, the following must be present for an order for reconstitution to issue: (a) that the certificate of title had been lost or destroyed; (b) that the documents presented by petitioner are sufficient and proper to warrant the reconstitution of the lost or destroyed certificate of title; (c) that the petitioner is the registered owner of the property or had an interest therein; (d) that the certificate of title was in force at the time it was lost and destroyed; and (e) that the description, area and boundaries of the property are substantially the same as those contained in the lost or destroyed certificate of title.²⁷

In reconstitution proceedings, the Court has repeatedly ruled that before jurisdiction over the case can be validly acquired, it is a condition *sine quo non* that the certificate of title has not been issued to another person. If a certificate of title has not been lost but is in fact in the possession of another person, the reconstituted title is void and the court rendering the decision has not acquired jurisdiction over the petition for issuance of new title. The courts simply have no jurisdiction over petitions by (such) third parties for reconstitution of allegedly lost or destroyed titles over lands that are already covered by duly issued subsisting titles in the names of their duly registered owners. The existence of a prior title *ipso facto* nullifies the reconstitution proceedings. The proper recourse is to assail directly in a proceeding before the regional trial court the validity of the Torrens title already issued to the other person.²⁸

In the case at bench, the CA found that the RTC lacked jurisdiction to order the reconstitution of the original copy of TCT No. 301617, there being no lost or destroyed title over the subject real property, the respondent having duly proved that TCT No. 301617 was in the name of a different owner, Florendo, and the technical description appearing on that TCT No. 301617 was similar to the technical description appearing in Lot 939, Piedad Estate covered by TCT No. RT-55869 (42532) in the name of Antonino. In fact, TCT No. RT-55869 (42532) was already cancelled by TCT Nos. 296725 to 296728 also in the name of Antonino.

Pertinent portions of the LRA Report, which the RTC did not wait for, read:

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²⁷ *Republic v. Tuastumban*, 604 Phil. 491, 504 (2009).

²⁸ *Alabang Development Corporation v. Valenzuela*, 201 Phil. 727, 744 (1982).

2.1 When the technical description of Lot No. 804-New-B, Psd-2341, appearing on the reproduction of Transfer Certificate of Title No. 301617, was plotted on the Municipal Index Map No. 5708, it appears that the aforesaid lot is identical to Lot 939, Piedad Estate covered by TCT No. RT-55869 (42532) in the name of Magnolia W. Antonino, which title is already totally cancelled and issuing in lieu thereof TCT Nos. 296725 to 296728 inclusive all in the name of Magnolia Antonino, covering Lots 939-A to 939-D of subdivision plan Psd-00-065898.

xxx

2.3. TCT No. 301617 was previously the subject of a petition for judicial reconstitution under LRC Case No. Q-3796 (90) in Regional Trial Court, Branch 77, wherein this Authority rendered a Report dated August 20, 1991. The said petition was dismissed on September 23, 1997 by then Presiding Judge Normandie B. Pizarro, on the grounds that the submitted basis for reconstitution are fabricated and that an earlier title was issued covering the same property.

2.4 The real TCT No. 301617 covers Lot 17, Blk. 83 of the subdivision plan Psd-57970, containing an area of 182.80 square meters, in the name of Emma B. Florendo. The same was applied for administrative reconstitution but it was found that the original copy of title on file in the Registry of Deeds, is among the saved titles from the fire that gutted the registry on June 11, 1988, reproduction of which is hereto attached.

The Court, thus, finds no reversible error in the findings of the CA. It is clear from the records that the subject TCT No. 301617 is in the name of a different owner, Florendo, and the technical description appearing therein pertains to a parcel of land covered by TCT No. RT-55869 (42532) in the name of one Antonino.

It must be remembered that 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.²⁹ Reconstitution apparently presupposes the existence of an original certificate of title which was lost or destroyed. If there was no loss or destruction like in the case at bench, there is actually nothing to reconstitute. The same rule applies if in fact there is an

²⁹ *Republic v. Tuastumban*, supra note 27.

earlier valid certificate of title in the name and in the possession of another person and said title is existing. Accordingly, the RTC never acquired jurisdiction over the same, and its judgment rendered thereafter is null and void, which may be attacked anytime.

With respect to the contention of Spouses Paulino that the LRA Report is inadmissible because it was not presented and identified in open court and admitted in evidence, suffice it is to say that they are *estopped* from questioning it. The admissibility of the LRA report was not challenged during the proceedings of the petition for annulment in the CA. Its admissibility was only questioned in these petitions. They are deemed to have waived their right to question its genuineness and authenticity.

Further, records show that the CA gave credence to the LRA Report, which was submitted in compliance to its resolution, dated July 26, 2012. The LRA Report is a certified photocopy from the records duly signed by the Branch Clerk of Court. Accordingly, the LRA report is deemed to form part of the records which may be used in resolving the present controversy. It need not be emphasized that the RTC hastily acted on the petition for reconstitution because it did not wait for the LRA Report. If there was no haste, the LRA Report would have shown that the RTC had no jurisdiction over the case because there was already an existing title.

In addition, Spouses Paulino also raised the irregularity in the issuance of TCT No. RT-558969 (42532), arguing that a reconstitution would not constitute a collateral attack on a title that was irregularly and illegally issued in the first place. They argued that it was an error on the part of the CA to deny their right to have their title reconstituted based on the fake title of Antonino. They assert that the rule, that a title issued under the Torrens System is presumed valid and, hence, is the best proof of ownership of a piece of land, does not apply where the certificate itself is faulty as to its purported origin.

The Court, however, finds the argument of Spouses Paulino specious and misplaced. It is a well settled rule that a certificate of title, once registered, cannot be impugned, altered, changed, modified, enlarged or diminished except in a direct proceeding permitted by law.³⁰ The validity of the certificate of title can be threshed out only in a direct proceeding filed for the purpose. A Torrens title cannot be attacked collaterally.

³⁰ *De Pedro v. Romasan Development Corporation*, 492 Phil. 643, 653 (2005).

It is also a well-known doctrine that the issue as to whether the title was procured by falsification or fraud as advanced by Spouses Paulino can only be raised in an action expressly instituted for the purpose. A Torrens title can be attacked only for fraud, within one year after the date of the issuance of the decree of registration. Such attack must be direct, and not by a collateral proceeding. The title represented by the certificate cannot be changed, altered, modified, enlarged, or diminished in a collateral proceeding.³¹

Indeed, the reconstitution proceeding constituted a collateral attack on the Torrens title of Antonino. The proper recourse of the Spouses Paulino to contest the validity of the certificate of title is not through the subject petition for reconstitution, but in a proper proceeding instituted for such purpose. Even if their arguments of fraud surrounding the issuance of the title of Antonino is correct, such allegation must be raised in a proper proceeding which is expressly instituted for that purpose.

Needless to state, the CA did not commit any grave abuse of discretion in issuing the writ of preliminary injunction questioned in G.R. No. 205065.

WHEREFORE, the petitions in both cases are **DENIED**.


SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

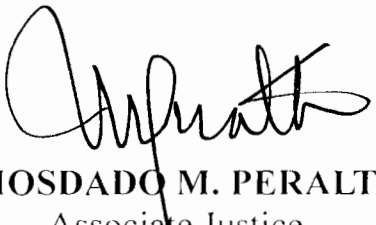
³¹ *Lagrosa v. Court of Appeals*, 371 Phil. 225, 238 (1999).

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WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice




MARTIN S. VILLARAMA, JR.
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

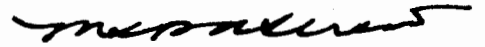
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court’s Division.



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

C E R T I F I C A T I O N

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