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FIRST DIVISION

[G.R. No. 168973, August 24, 2011]

CITY OF DUMAGUETE, HEREIN REPRESENTED BY CITY MAYOR, AGUSTIN R. PERDICES, PETITIONER, VS. PHILIPPINE PORTS AUTHORITY, RESPONDENT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before Us is a Petition for Review under Rule 45 of the Rules of Court assailing the Decision[1] dated March 4, 2005 and Resolution[2] dated June 6, 2005 of the Court Appeals in CA-G.R. SP No. 64379, which granted the Petition for *Certiorari* and Prohibition of respondent Philippine Ports Authority and set aside the Orders dated December 7, 2000 and February 20, 2001 of the Regional Trial Court (RTC), Branch 44 of the City of Dumaguete in LRC Case No. N-201.

The antecedent facts are as follows:

On October 14, 1998, petitioner City of Dumaguete, through Mayor Felipe Antonio B. Remollo (Remollo), filed before the RTC an Application for Original Registration of Title over a parcel of land with improvements, located at Barangay Looc, City of Dumaguete (subject property), under the Property Registration Decree. The application was docketed as LRC Case No. N-201.

Petitioner alleged in support of its application:

> 1. That the applicant, City of Dumaguete through its Honorable Mayor Felipe Antonio B. Remollo, is the owner of the land subject of this application with all improvements and buildings comprising the Engineer's Compound where it is now situated and has been in continuous occupation and possession of the same for more than 30 years or from the year 1960 (Affidavit of Ownership executed by Felipe Antonio G. Remollo, the City Mayor, dated August 21, 1998 herein attached as ANNEX A). The said land consist of 5,410 square meters and is situated and bounded and described as shown on the plan (true and photostatic copies of the original plan marked Psu-07-006805 approved by the Regional Technical Director of the [Department of Environment and Natural Resources]

DENR, Regional Office, Cebu City herein attached as ANNEX B) and technical descriptions attached hereto (technical description attached as ANNEX C) and made a part hereof;

2. That said land at the last assessment for taxation was assessed at P676,250, Philippine currency, with market value of P1,352,500.00, Philippine currency. (Declaration of Real Property with the assessed and market values attached as ANNEX D);

3. That to the best of my knowledge and belief, there is no mortgage or encumbrance of any kind whatsoever affecting said land, nor another person having any estate or interest therein, legal or equitable, in possession, remainder, reversion or expectancy;

4. That the land was acquired by possessory title in open, continuous, adverse occupation and possession in the concept of owner for more than thirty years since 1960 (please refer to ANNEX A);

5. That the land is adjoined by the following:

NorthWest
NorthEast
SouthEast

All along line 1-2-3-4-5-6-7-8-9-10 by Flores Avenue, City Road and the Dumaguete Port Road

SouthWest - along line 10-1 by Plan Msi-V-20453

x x x x

8. That the land included is bounded on the West by Flores Avenue and on the North by the City Road, all public highways and on the East by the Dumaguete Port Road, a private road made part of the Port Zone.[3]

In an Order[4] dated October 23, 1998, the RTC noted that:

A perusal of the records of the case shows that the annexes lack the following copies:

a) two blue print copies of the approved plan;
b) two copies of the technical description of the lot sought to be registered;
c) two copies of the Surveyor's certificate;

d) a certificate in quadruplicate of the City Assessor of the assessed value of the land;
e) all original muniments of title in the possession of the applicant which prove ownership of the land;
f) two copies of the petition/application.

Further, the application did not state the number of the lot sought to be registered, the number of parcels applied for, the improvements found thereon, and indicate whether it claims a portion of the road which serves as a boundary line.

All these must be alleged in the petition so that the Court will know the nature of the property.

The RTC explained that the extra copies submitted by petitioner shall be forwarded by the RTC Clerk of Court to the Land Registration Commission (LRC) in Manila for comment. Only thereafter would the RTC set the application for hearing.

Petitioner filed its Compliance[5] with the above-mentioned Order, submitting additional copies of the required documents and clarifying thus:

1. The approved plan does not state the number of lot sought to be registered because it is a public land, thus, only PSU-07-006805 appears on the plan which is being applied for registration;
2. Only one (1) parcel of land is applied for by petitioners which consist of five thousand four hundred ten (5,410) square meters, more or less;
3. The City Engineer's Building within the City Engineer's compound are the only improvement found thereon; and
4. Petitioners do not claim any portion of the road which serves as a boundary line.

The RTC accordingly set the initial hearing of LRC Case No. N-201 on April 12, 1999, and sent notices to the parties.

The Republic of the Philippines, represented by the Director of Lands, and respondent, represented by the Office of the Government Corporate Counsel, filed separate Oppositions [6] to the application for registration of petitioner. Both the Republic and respondent averred that petitioner may not register the subject property in its name since petitioner had never been in open, continuous, exclusive, and notorious possession of the said property for at least 30 years immediately preceding the filing of the application; and the subject property remains to be a portion of the public domain which belongs to the Republic.

After several postponements of the scheduled hearings, petitioner presented the testimony of its first witness, Engineer Rilthe P. Dorado (Engr. Dorado), on January 14, 2000. Engr. Dorado's examination on the witness stand was terminated on April 7, 2000. The presentation of the other witnesses of petitioner was then scheduled to continue on June 2, 2000.[7]

However, before the next hearing, respondent filed a Motion to Dismiss,[8] seeking the dismissal of LRC Case No. N-201 on the ground that the RTC lacked jurisdiction to hear and decide the case. Respondent argued that Section 14(1) of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, refers only to alienable and disposable lands of the public domain under a *bona fide* claim of ownership. The subject property in LRC Case No. N-201 is not alienable and disposable, since it is a foreshore land, as explicitly testified to by petitioner's own witness, Engr. Dorado. A foreshore land is not registerable. This was precisely the reason why, respondent points out, that the subject property was included in Presidential Proclamation No. 1232 (delineating the territorial boundaries of the Dumaguete Port Zone), so that the same would be administered and managed by the State, through respondent, for the benefit of the people.

In its Terse Opposition to Oppositor's Motion to Dismiss, petitioner claimed that the subject property was a swamp reclaimed about 40 years ago, which it occupied openly, continuously, exclusively, and notoriously under a *bona fide* claim of ownership. The technical description and approved plan of the subject property showed that the said property was not bounded by any part of the sea. Petitioner invoked Republic Act No. 1899,[9] which authorizes chartered cities and municipalities to undertake and carry out, at their own expense, the reclamation of foreshore lands bordering them; and grants said chartered cities and municipalities ownership over the reclaimed lands. Presidential Proclamation No. 1232 is immaterial to the present application for registration because it merely authorizes respondent to administer and manage the Dumaguete Port Zone and does not confer upon respondent ownership of the subject property.[10]

Respondent filed a Reply/Rejoinder (To Applicant's Opposition to Oppositor's Motion to Dismiss), [11] asserting that there are no factual or legal basis for the claim of petitioner that the subject property is reclaimed land. Petitioner sought the original registration of its title over the subject property acquired through alleged continuous possession for 30 years under Section 14(1) of the Property Registration Decree, and not through the reclamation of the said property at its own expense under Republic Act No. 1899. The present claim of petitioner that the subject property is reclaimed land should not be allowed for it would improperly change the earlier theory in support of the application for registration. Respondent reiterated that the subject property is foreshore land which cannot be registered; and that Presidential Proclamation No. 1232 is very material to LRC Case No. N-201 because it confirms that areas within the Dumaguete Port Zone, including the subject property, are not alienable and disposable lands of the public domain.

On September 7, 2000, the RTC issued an Order[12] granting the Motion to Dismiss of

respondent based on the following ratiocination:

> The Court agrees with [herein respondent] Philippine Ports Authority that the basis of the [herein petitioner's] application for original registration of the subject lot is Section 14 of the Presidential Decree No. 1529, otherwise known as the Property Registration Decree. A circumspect scrutiny of said Section readily shows that it refers to alienable and disposable lands of the public domain as proper subjects of registration, provided the applicant has met the other requirements such as open, continuous, exclusive and notorious possession for at least thirty (30) years under a bona fide claim of ownership.
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> It having been shown by [petitioner's] own evidence that the lot subject of the application for original registration is a foreshore land, and therefore not registerable (Dizon, et al. vs. Bayona, et al., 98 SCRA 942, 944), the application must be denied.
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> Again as correctly argued by [respondent], [petitioner's] reliance on Republic Act 1899 which authorizes all municipalities and chartered cities to undertake and carry out the reclamation by dredging, filling or other means of any foreshore lands bordering them and which confers ownership on them of the lands so reclaimed, is misplaced, as such has never been alleged in the application. It is fundamental that a party cannot prove what it has not alleged in his complaint or application, as in this case.
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> The admission by Engr. Dorado that there is no formal declaration from the executive branch of government or law passed by Congress that the land in question is no longer needed for public use or special industries x x x further militates against the application.
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> Moreover, the authority granted to municipalities and chartered cities to undertake and carry out at their own expense the reclamation by dredging, filling, or other means, of any foreshore lands bordering them is for the purpose of establishing, providing, constructing, maintaining, and repairing proper and adequate docking and harbor facilities as such municipalities and chartered cities may determine in consultation with the Secretary of Finance and the Secretary of Public Works and Communications.
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> By its own evidence, [petitioner] has utilized the subject property allegedly reclaimed by it as Office of the City Engineer and not as docking and harboring facilities. [Petitioner] has failed to show that such reclamation was undertaken by it in consultation with the Secretary of Finance and the Secretary of Public Works and Communications.[13]

The RTC decreed in the end that "the instant application for original registration is dismissed for lack of merit."[14]

In its Motion for Reconsideration[15] and Supplemental Motion for Reconsideration,[16] petitioner contended that the dismissal of its application was premature and tantamount to a denial of its right to due process. It has yet to present evidence to prove factual matters in support of its application, such as the subject property already being alienable and disposable at the time it was occupied and possessed by petitioner.

Petitioner also pointed out that its witness, Engr. Dorado, "testified only as to the physical status of the land in question at the time when the cadastral survey of Dumaguete was made sometime in 1916."[17] In fact, Engr. Dorado expressly testified that the subject property was "part of the shore or foreshore a long time ago[;]"[18] and he did not testify at all that the subject property was a foreshore lot at the time petitioner occupied and possessed the same. The physical state of the subject property had already changed since 1916. It is now within the "alienable and disposable area as per the Land Classification Map No. 674, Project No. 1-D, BL C-6, certified on July 3, 1927, of the Bureau of Lands, now Land Management Sector of the Department of Environment and Natural Resources[,]"[19] as verified and certified by the Chief of the Map Projection Section, Land Management Sector, DENR Regional Office in Cebu City, who has yet to take the witness stand before the RTC.

Petitioner insisted that the RTC should continue with the hearing of LRC Case No. N-201 and allow petitioner to present evidence that the subject property is reclaimed land. Petitioner sufficiently alleged in its application for registration that it has been in "open, continuous, exclusive, and notorious possession of the [subject property] for more than thirty (30) years under a *bona fide* claim of ownership."[20] In support of such allegation, petitioner must necessarily prove that the subject property was previously a swampy area, which had to be filled or reclaimed before the construction of the City Engineer's Office building thereon.

Respondent based its Opposition (To Applicant's Motion for Reconsideration dated September 28, 2000)[21] and Opposition (To Applicant's Supplemental Motion for Reconsideration)[22] on technical and substantive grounds.

According to respondent, the Motion for Reconsideration of petitioner violated Sections 4 (Hearing of motion), 5 (Notice of hearing), and 6 (Proof of service necessary), Rule 15 of the Rules of Court. Petitioner did not set its Motion for Reconsideration for hearing even when the said Motion could not be considered as non-litigable. The RTC could not hear the motion for reconsideration *ex parte* as they are prejudicial to the rights of respondent. Petitioner also failed to comply with Section 11, Rule 13 of the Rules of Court when it did not attach to the Motion for Reconsideration a written explanation why it did not resort to personal service of the said Motion. Thus, respondent averred that the Motion for

Reconsideration of petitioner should be treated as a mere scrap of paper with no legal effect. It did not interrupt the reglementary period to appeal and the RTC Order dated September 7, 2000, dismissing LRC Case No. N-201, had already attained finality. Respondent also pointed out that the Supplemental Motion for Reconsideration of petitioner suffered from the same fatal defects as the original Motion for Reconsideration.

Respondent again posited that the subject property was foreshore land belonging to the State and not subject to private appropriation, unless the same had already been declared by the executive or legislative department of the national government as no longer needed for coast guard service, public use, or special industries, and classified as alienable and disposable. Full- blown trial in LRC Case No. N-201 was no longer necessary as the evidence so far presented by petitioner had already established that the RTC lacked jurisdiction over the subject matter of the case.

In its Order[23] dated November 16, 2000, the RTC initially agreed with respondent that the Motion for Reconsideration of petitioner violated Sections 4, 5, and 6, Rule 15 and Section 11, Rule 13 of the Rules of Court. Resultantly, the Motion for Reconsideration of petitioner was considered as not filed and did not toll the running of the period to file an appeal, rendering final and executory the order of dismissal of LRC Case No. N-201.

However, after taking into consideration the Supplemental Motion for Reconsideration of petitioner, the RTC issued another Order[24] dated December 7, 2000, setting aside its Order dated September 7, 2000 in the interest of justice and resolving to have a full-blown proceeding to determine factual issues in LRC Case No. N-201.

It was then the turn of respondent to file with the RTC a Motion for Reconsideration[25] of the Order dated December 7, 2000. In an Order[26] dated February 20, 2001, the RTC denied the motion of respondent and admitted the following:

> A thorough review and perusal of the disputed order dated September 7, 2000 and December 7, 2000, whereby this Court dismissed [petitioner's] petition for registration of Lot No. 1, Dumaguete Cadastre, and later set aside the Order of September 7, 2000, shows that there was honest mistake in declaring said lot 1, as a shoreline. Indeed, the adjoining lots are already titled and bounded by a City Road. It is not bounded by a sea. The Court wants to correct this error in its findings on the September 7, 2000 Order, that Lot No. 1 is situated on the shoreline of Dumaguete City. The Court simply committed an oversight on the petitioner's evidence that the lot in question is a foreshore land x x x when in fact it is not. And it is for this reason that the court reconsidered and set aside said September 7, 2000 Order, to correct the same while it is true that said September 7, 2000 Order had attained its finality, yet this Court cannot in conscience allow injustice to perpetuate in this case and that hearing on the merits must proceed to determine the legality and truthfulness of its application

for registration of title.

Respondent sought recourse from the Court of Appeals by filing a Petition for *Certiorari* and Prohibition under Rule 65 of the Rules of Court, docketed as CA-G.R. SP No. 64379. Respondent challenged the RTC Orders dated December 7, 2000 and February 20, 2001 for having been issued by the RTC in grave abuse of discretion amounting to lack or excess of jurisdiction. Respondent reiterated that the RTC Order dated September 7, 2000, dismissing LRC Case No. N-201 had already attained finality. The defects of the Motion for Reconsideration of petitioner rendered the same as a mere scrap of paper, which did not toll the running of the prescriptive period to appeal the RTC Order dated September 7, 2000.

The Court of Appeals, in its Decision dated March 4, 2005, found merit in the Petition of respondent and set aside the RTC Orders dated December 7, 2000 and February 20, 2001. The appellate court, in its Resolution dated June 6, 2005, denied the Motion for Reconsideration of petitioner.

Hence, petitioner comes before us *via* the instant Petition for Review with the following assignment of error:

GROUND FOR THE APPEAL

> Error of law: The March 4, 2005 decision of the Court of Appeals and its June 6, 2005 Resolution, erred on question of law in setting aside the Orders of the Regional Trial Court, Branch 44, dated December 7, 2000 and February 20, 2001. The said Orders of the trial court were made in order to determine factual issues and to correct its error in its findings on the September 7, 2000 Order. Thus, the Court of Appeals decision is contrary to law, justice, equity and existing jurisprudence.[27]

Respondent insists on the strict application of Sections 4, 5, and 6, Rule 15 and Section 11, Rule 13 of the Rules of Court. Violations of the said rules were fatal to the Motion for Reconsideration and Supplemental Motion for Reconsideration of the petitioner, and as a result, the RTC Order dated September 7, 2000, dismissing LRC Case No. N-201, had already become final and executory and, thus, beyond the jurisdiction of the RTC to set aside. Respondent urges us to reject the plea of petitioner for a liberal application of the rules in the absence of a compelling reason to do so.

We grant the Petition.

The grant of a petition for *certiorari* under Rule 65 of the Rules of Court requires grave abuse of discretion amounting to lack or excess of jurisdiction. Grave abuse of discretion

exists where an act is performed with a capricious or whimsical exercise of judgment equivalent to lack of jurisdiction. The abuse of discretion must be patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility.[28]

The Court of Appeals erred in granting the writ of *certiorari* in favor of respondent. The RTC did not commit grave abuse of discretion when, in its Orders dated December 7, 2000 and February 20, 2001, it set aside the order of dismissal of LRC Case No. N-201 and resolved to have a full-blown proceeding to determine factual issues in said case.

Procedural rules were conceived to aid the attainment of justice. If a stringent application of the rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter.[29] In *Basco v. Court of Appeals*,[30] we allowed a liberal application of technical rules of procedure, pertaining to the requisites of a proper notice of hearing, upon consideration of the importance of the subject matter of the controversy, as illustrated in well-settled cases, to wit:

> The liberal construction of the rules on notice of hearing is exemplified in *Goldloop Properties, Inc. v. CA*:
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> > Admittedly, the filing of respondent-spouses' motion for reconsideration did not stop the running of the period of appeal because of the absence of a notice of hearing required in Secs. 3, 4 and 5, Rule 15, of the Rules of Court. As we have repeatedly held, a motion that does not contain a notice of hearing is a mere scrap of paper; it presents no question which merits the attention of the court. Being a mere scrap of paper, the trial court had no alternative but to disregard it. Such being the case, it was as if no motion for reconsideration was filed and, therefore, the reglementary period within which respondent-spouses should have filed an appeal expired on 23 November 1989.
> >
> > But, where a rigid application of that rule will result in a manifest failure or miscarriage of justice, then the rule may be relaxed, especially if a party successfully shows that the alleged defect in the questioned final and executory judgment is not apparent on its face or from the recitals contained therein. **Technicalities may thus be disregarded in order to resolve the case. After all, no party can even claim a vested right in technicalities. Litigations should, as much as possible, be decided on the merits and not on technicalities.**

> Hence, this Court should not easily allow a party to lose title and ownership over a party worth P4,000,000.00 for a measly P650,000.00 without affording him ample opportunity to prove his claim that the transaction entered into was not in fact an absolute sale but one of mortgage. Such grave injustice must not be permitted to prevail on the anvil of technicalities.

Likewise, in *Samoso v. CA*, the Court ruled:

> But time and again, the Court has stressed that the rules of procedure are not to be applied in a very strict and technical sense. The rules of procedure are used only to help secure not override substantial justice (*National Waterworks & Sewerage System vs. Municipality of Libmanan*, 97 SCRA 138 [1980]; *Gregorio v. Court of Appeals*, 72 SCRA 120 [1976]). **The right to appeal should not be lightly disregarded by a stringent application of rules of procedure especially where the appeal is on its face meritorious and the interests of substantial justice would be served by permitting the appeal** (*Siguenza v. Court of Appeals*, 137 SCRA 570 [1985]; *Pacific Asia Overseas Shipping Corporation v. National Labor Relations Commission, et al*., G.R. No. 76595, May 6, 1998). . . . (Emphasis ours.)
>
> In the instant case, it is petitioner's life and liberty that is at stake. The trial court has sentenced him to suffer the penalty of *reclusion perpetua* and his conviction attained finality on the basis of mere technicality. It is but just, therefore, that petitioner be given the opportunity to defend himself and pursue his appeal. To do otherwise would be tantamount to grave injustice. A relaxation of the procedural rules, considering the particular circumstances herein, is justified.[31]

In the case at bar, the Motion for Reconsideration and Supplemental Motion for Reconsideration of petitioner, which sought the reversal of RTC Order dated September 7, 2000 dismissing LRC Case No. N-201, cite meritorious grounds that justify a liberal application of procedural rules.

The dismissal by the RTC of LRC Case No. N-201 for lack of jurisdiction is patently erroneous.

Basic as a hornbook principle is that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a

concise statement of the ultimate facts constituting the plaintiff's cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. The averments in the complaint and the character of the relief sought are the ones to be consulted. Once vested by the allegations in the complaint, jurisdiction also remains vested irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein.[32]

As a necessary consequence, the jurisdiction of the court cannot be made to depend upon the defenses set up in the answer or upon the motion to dismiss; for otherwise, the question of jurisdiction would almost entirely depend upon the defendant. What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments therein and the character of the relief sought are the ones to be consulted.[33]

Under Act No. 496, otherwise known as the Land Registration Act, as amended by Act No. 2347, jurisdiction over all applications for registration of title to land was conferred upon the Courts of First Instance (CFI) of the respective provinces in which the land sought to be registered was situated. Jurisdiction over land registration cases, as in ordinary actions, is acquired upon the filing in court of the application for registration, and is retained up to the end of the litigation.[34]

The land registration laws were updated and codified by the Property Registration Decree, and under Section 17 thereof, jurisdiction over an application for land registration was still vested on the CFI of the province or city where the land was situated, *viz*:

> SEC. 17. *What and where to file*. - The application for land registration shall be filed with the Court of First Instance of the province or city where the land is situated. The applicant shall file together with the application all original muniments of titles or copies thereof and a survey plan of the land approved by the Bureau of Lands.
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> The Clerk of Court shall not accept any application unless it is shown that the applicant has furnished the Director of Lands with a copy of the application and all annexes.

Batas Pambansa Blg. 129, otherwise known as The Judiciary Reorganization Act of 1980, created the RTC[35] in place of the CFI. Presently, jurisdiction over an application for land registration remains with the RTC where the land is situated, except when such jurisdiction is delegated by the Supreme Court to the Metropolitan Trial Court, Municipal Trial Courts, and Municipal Circuit Trial Courts under certain circumstances.[36]

It is not disputed that the Application for Original Registration of Title filed by petitioner before the RTC of the City of Dumaguete conformed to Section 15 of the Property Registration Decree, which prescribes the form and contents of such applications. In its Application, petitioner prayed that its title to the subject property, which it repeatedly alleged to have acquired through continuous and adverse possession and occupation of the said property for more than 30 years or since 1960, be placed under the land registration laws. The allegations and prayer in the Application of petitioner were sufficient to vest jurisdiction on the RTC over the said Application upon the filing thereof.

Respondent sought the dismissal of LRC Case No. N-201 on the ground of lack of jurisdiction, not because of the insufficiency of the allegations and prayer therein, but because the evidence presented by petitioner itself during the trial supposedly showed that the subject property is a foreshore land, which is not alienable and disposable. The RTC granted the Motion to Dismiss of respondent in its Order dated September 7, 2000. The RTC went beyond the allegations and prayer for relief in the Application for Original Registration of petitioner, and already scrutinized and weighed the testimony of Engr. Dorado, the only witness petitioner was able to present.

As to whether or not the subject property is indeed foreshore land is a factual issue which the RTC should resolve in the exercise of its jurisdiction, after giving both parties the opportunity to present their respective evidence at a full-blown trial. As we have explained in the *Estate of the Late Jesus S. Yujuico v. Republic*[37]:

> The plain import of *Municipality of Antipolo* is that a land registration court, the RTC at present, has no jurisdiction over the subject matter of the application which respondent Republic claims is public land. This ruling needs elucidation.
>
> Firmly entrenched is the principle that jurisdiction over the subject matter is conferred by law. Consequently, the proper CFI (now the RTC) under Section 14 of PD 1529 (Property Registration Decree) has jurisdiction over applications for registration of title to land.
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> x x x x
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> Conformably, the Pasig-Rizal CFI, Branch XXII has jurisdiction over the subject matter of the land registration case filed by Fermina Castro, petitioners' predecessor-in-interest, since jurisdiction over the subject matter is determined by the allegations of the initiatory pleading - the application. Settled is the rule that "the authority to decide a case and not the decision rendered therein is what makes up jurisdiction. When there is jurisdiction, the decision of all questions arising in the case is but an exercise of jurisdiction.
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> In our view, it was imprecise to state in *Municipality of Antipolo* that the "Land

> Registration Court [has] no jurisdiction to entertain the application for registration of public property x x x" for such court precisely has the jurisdiction to entertain land registration applications since that is conferred by PD 1529. The applicant in a land registration case usually claims the land subject matter of the application as his/her private property, as in the case of the application of Castro. Thus, the conclusion of the CA that the Pasig-Rizal CFI has no jurisdiction over the subject matter of the application of Castro has no mooring. **The land registration court initially has jurisdiction over the land applied for at the time of the filing of the application. After trial, the court, in the exercise of its jurisdiction, can determine whether the title to the land applied for is registerable and can be confirmed. In the event that the subject matter of the application turns out to be inalienable public land, then it has no jurisdiction to order the registration of the land and perforce must dismiss the application.** [38] (Emphasis ours.)

It is true that petitioner, as the applicant, has the burden of proving that the subject property is alienable and disposable and its title to the same is capable of registration. However, we stress that the RTC, when it issued its Order dated September 7, 2000, had so far heard only the testimony of Engr. Dorado, the first witness for the petitioner. Petitioner was no longer afforded the opportunity to present other witnesses and pieces of evidence in support of its Application. The RTC Order dated September 7, 2000 - already declaring the subject property as inalienable public land, over which the RTC has no jurisdiction to order registration - was evidently premature.

The RTC Order dated September 7, 2000 has not yet become final and executory as petitioner was able to duly file a Motion for Reconsideration and Supplemental Motion for Reconsideration of the same, which the RTC eventually granted in its Order dated December 7, 2000. Admittedly, said motions filed by petitioner did not comply with certain rules of procedure. Ordinarily, such non-compliance would have rendered said motions as mere scraps of paper, considered as not having been filed at all, and unable to toll the reglementary period for an appeal. However, we find that the exceptional circumstances extant in the present case warrant the liberal application of the rules.

Also, the Motion for Reconsideration and Supplemental Motion for Reconsideration of the Order dated September 7, 2000 filed by petitioner did not comply with Section 11, Rule 13 of the Rules of Court, for these did not include a written explanation why service or filing thereof was not done personally. Nonetheless, in *Maceda v. Encarnacion de Guzman Vda. de Magpantay*,[39] citing *Solar Team Entertainment, Inc. v. Ricafort,*[40] and *Musa v. Amor*, [41] we explained the rationale behind said rule and the mandatory nature of the same, *vis-à-vis* the exercise of discretion by the court in case of non-compliance therewith:

> In *Solar Team Entertainment, Inc. v. Ricafort*, this Court, passing upon Section 11 of Rule 13 of the Rules of Court, held that a court has the discretion to

consider a pleading or paper as not filed if said rule is not complied with.

> Personal service and filing are preferred for obvious reasons. Plainly, such should expedite action or resolution on a pleading, motion or other paper; and conversely, minimize, if not eliminate, delays likely to be incurred if service or filing is done by mail, considering the inefficiency of the postal service. Likewise, personal service will do away with the practice of some lawyers who, wanting to appear clever, resort to the following less than ethical practices: (1) serving or filing pleadings by mail to catch opposing counsel off-guard, thus leaving the latter with little or no time to prepare, for instance, responsive pleadings or an opposition; or (2) upon receiving notice from the post office that the registered containing the pleading of or other paper from the adverse party may be claimed, unduly procrastinating before claiming the parcel, or, worse, not claiming it at all, thereby causing undue delay in the disposition of such pleading or other papers.
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> If only to underscore the mandatory nature of this innovation to our set of adjective rules requiring personal service whenever practicable, Section 11 of Rule 13 then gives the court the discretion to consider a pleading or paper as not filed if the other modes of service or filing were not resorted to and no written explanation was made as to why personal service was not done in the first place. **The exercise of discretion must, necessarily consider the practicability of personal service, for Section 11 itself begins with the clause "whenever practicable."**
>
> We thus take this opportunity to clarify that under Section 11, Rule 13 of the 1997 Rules of Civil Procedure, personal service and filing is the general rule, and resort to other modes of service and filing, the exception. Henceforth, whenever personal service or filing is practicable, in the light of the circumstances of time, place and person, personal service or filing is mandatory. Only when personal service or filing is not practicable may resort to other modes be had, which must then be accompanied by a written explanation as to why personal service or filing was not practicable to begin with. In adjudging the plausibility of an explanation, a court shall likewise consider the importance of the subject matter of the case or the issues involved therein, and the *prima facie* merit of the pleading sought to be expunged for violation of Section 11.

In **Musa v. Amor**, this Court, on noting the impracticality of personal service, exercised its discretion and liberally applied Section 11 of Rule 13:

> As [Section 11, Rule 13 of the Rules of Court] requires, service and filing of pleadings must be done personally whenever practicable. **The court notes that in the present case, personal service would not be practicable.** Considering the distance between the Court of Appeals and Donsol, Sorsogon where the petition was posted, clearly, service by registered mail [sic] would have entailed considerable time, effort and expense. **A written explanation why service was not done personally might have been superfluous. In any case, as the rule is so worded with the use of "may," signifying permissiveness, a violation thereof gives the court discretion whether or not to consider the paper as not filed.** While it is true that procedural rules are necessary to secure an orderly and speedy administration of justice, rigid application of Section 11, Rule 13 may be relaxed in this case in the interest of substantial justice.

> In the case at bar, the address of respondent's counsel is Lopez, Quezon, while petitioner Sonia's counsel's is Lucena City. Lopez, Quezon is 83 kilometers away from Lucena City. Such distance makes personal service impracticable. As in *Musa v. Amor*, a written explanation why service was not done personally "might have been superfluous."[42] (Emphases supplied and citations omitted.)

Our ruling in the above-cited cases is relevant to the instant case. Counsel for petitioner holds office in Dumaguete City, Negros Oriental, in the Visayas; while counsel for respondent holds office in Quezon City, Metro Manila, in Luzon. Given the considerable distance between the offices of these two counsels, personal service of pleadings and motions by one upon the other was clearly not practicable and a written explanation as to why personal service was not done would only be superfluous.[43] In addition, we refer once more to the merits of the Motion for Reconsideration and Supplemental Motion for Reconsideration of the RTC Order dated September 7, 2000 filed by petitioner, which justify the liberal interpretation of Section 11, Rule 13 of the Rules of Court in this case.

Jurisprudence confirms that the requirements laid down in Sections 4, 5, and 6, Rule 15 of the Rules of Court that the notice of hearing shall be directed to the parties concerned, and shall state the time and place for the hearing of the motion, are mandatory. If not religiously complied with, they render the motion *pro forma*. As such, the motion is a useless piece of paper that will not toll the running of the prescriptive period.[44]

Yet, again, there were previous cases with peculiar circumstances that had compelled us to liberally apply the rules on notice of hearing and recognize substantial compliance with the same. Once such case is *Philippine National Bank v. Paneda*,[45] where we adjudged:

> Thus, even if the Motion may be defective for failure to address the notice of hearing of said motion to the parties concerned, the defect was cured by the court's taking cognizance thereof and the fact that the adverse party was otherwise notified of the existence of said pleading. There is substantial compliance with the foregoing rules if a copy of the said motion for reconsideration was furnished to the counsel of herein private respondents.
>
> In the present case, records reveal that the notices in the Motion were addressed to the respective counsels of the private respondents and they were duly furnished with copies of the same as shown by the receipts signed by their staff or agents.
>
> **Consequently, the Court finds that the petitioner substantially complied with the pertinent provisions of the Rules of Court and existing jurisprudence on the requirements of motions and pleadings.**[46] (Emphasis supplied.)

It was not refuted that petitioner furnished respondent and respondent actually received copies of the Motion for Reconsideration, as well as the Supplemental Motion for Reconsideration of the RTC Order dated September 7, 2000 filed by petitioner. As a result, respondent was able to file its Oppositions to the said Motions. The RTC, in issuing its Order dated December 7, 2000, was able to consider the arguments presented by both sides. Hence, there was substantial compliance by petitioner with the rules on notice of hearing for its Motion for Reconsideration and Supplemental Motion for Reconsideration of the RTC Order dated September 7, 2000. Respondent cannot claim that it was deprived of the opportunity to be heard on its opposition to said Motions.

In view of the foregoing circumstances, the RTC judiciously, rather than abusively or arbitrarily, exercised its discretion when it subsequently issued the Order dated December 7, 2000, setting aside its Order dated September 7, 2000 and proceeding with the trial in LRC Case No. N-201.

WHEREFORE, the instant Petition for Review of petitioner City of Dumaguete is hereby **GRANTED**. The Decision dated March 4, 2005 and Resolution dated June 6, 2005 of the Court Appeals in CA-G.R. SP No. 64379 are **SET ASIDE**, and the Orders dated December 7, 2000 and February 20, 2001 of Branch 44 of the Regional Trial Court of the City of Dumaguete in LRC Case No. N-201 are **REINSTATED**. The said trial court is **DIRECTED** to proceed with the hearing of LRC Case No. N-201 with dispatch.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and *Villarama, Jr., JJ.,* concur.

[1] *Rollo*, pp. 25-32; penned by Associate Justice Isaias P. Dicdican with Associate Justices Pampio A. Abarintos and Vicente L. Yap, concurring.

[2] Id. at 39-41.

[3] Records, pp. 2-3.

[4] Id. at 33-34.

[5] Id. at 37-38.

[6] Id. at 25-26 and 58-61.

[7] Id. at 93 and 108.

[8] Id. at 116-124.

[9] An Act to Authorize the Reclamation of Foreshore Lands by Chartered Cities and Municipalities.

[10] Records, pp. 129-131.

[11] Id. at 155-160.

[12] Id. at 134-137.

[13] Id. at 136-137.

[14] Id. at 137.

[15] Id. at 138-141.

[16] Id. at 151-152.

[17] Id. at 138.

[18] Id. at 138-139.

[19] Id. at 139.

[20] Id.

[21] Id. at 142-150.

[22] Id. at 161-166.

[23] Id. at 153-154.

[24] Id. at 167.

[25] Id. at 169-172.

[26] Id. at 179.

[27] *Rollo*, p. 16.

[28] *Casent Realty and Development Corporation v. Premiere Development Bank*, G.R. No. 163902, January 27, 2006, 480 SCRA 426, 434.

[29] *Basco v. Court of Appeals*, 392 Phil. 251, 266 (2000).

[30] Id.

[31] Id. at 266-267.

[32] *Gomez v. Montalban*, G.R. No. 174414, March 14, 2008, 548 SCRA 693, 705-706.

[33] *Fort Bonifacio Development Corporation v. Domingo*, G.R. No. 180765, February 27, 2009, 580 SCRA 397, 404.

[34] *Realty Sales Enterprise, Inc. v. Intermediate Appellate Court*, 238 Phil. 317, 329 (1987).

[35] Section 13.

[36] *Batas Pambansa Blg*. 129, Section 34 reads:

SEC. 34. *Delegated Jurisdiction in Cadastral and Land Registration Cases*. - Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts may be assigned by the Supreme Court to hear and determine cadastral or land registration cases covering lots where there is no controversy or opposition, or contested lots where the value of which does not exceed One hundred thousand pesos (P100,000.00), such value to be ascertained by the affidavit of the claimant or by agreement of the respective claimants if there are more than one, or from the corresponding tax declaration of the real property. Their decisions in these cases shall be appealable in the same manner as decisions of the Regional Trial Courts. (As amended by Republic Act No. 7691.)

[37] G.R. No. 168661, October 26, 2007, 537 SCRA 513.

[38] Id. at 539-541.

[39] 516 Phil. 755 (2006).

[40] 355 Phil. 404 (1998).

[41] 430 Phil. 128 (2002).

[42] *Maceda v. Encarnacion de Guzman Vda. de Magpantay*, supra note 39 at 763-765.

[43] Records, pp. 141 and 152.

[44] *De La Peña v. De La Peña*, 327 Phil. 936, 942 (1996).

[45] G.R. No. 149236, February 14, 2007, 515 SCRA 639.

[46] Id. at 653.