



Republic of the Philippines  
**Supreme Court**  
 Baguio City

**FIRST DIVISION**

**ALICE G. AFRICA,**  
 Petitioner,

**G.R. No. 206540**

Present:

SERENO, C.J.,  
*Chairperson,*  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 PEREZ and  
 PERLAS-BERNABE, JJ.

- versus -

**INSURANCE SAVINGS AND  
 INVESTMENT AGENCY, INC. (ISIA)**  
 represented by its President, **DELIA DE  
 BORJA; acting Register Of Deeds, Las  
 Piñas City, ATTY. ABRAHAM N.  
 VERMUDEZ,**

Promulgated:

**APR 20 2015**

Respondents.

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**RESOLUTION**

**PEREZ, J.:**

At bar is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court brought directly before us by petitioner Alice G. Africa on pure questions of law assailing the Decision<sup>1</sup> dated 14 November 2012 and Order<sup>2</sup> dated 26 March 2013 of the Regional Trial Court (RTC), Branch 275, Las Piñas City in SCA Case No. 12-0010.

The subject property of this case is a parcel of land located along Zapote Road, Almanza, Las Piñas City, with an area of 221,688 square meters (sq. m.), covered by Transfer Certificate of Title No. 38910-A registered in the name of the Spouses Wilson P. Orfinada and Lucrecia

<sup>1</sup> Rollo, pp. 31-34; Penned by Judge Bonifacio Sanz Maceda.  
<sup>2</sup> Id. at 54-59.

Kiocho (Spouses Orfinada). This same property is likewise the subject matter of litigation, its ownership and titling, of cases reaching the Court and resulting in conflicting rulings, to wit:

1. **G.R. No. 91413, Fusilero, et al., v. Court of Appeals, et al., 2 July 1990**, decreeing that Benito J. Lopez and Pepito Ng are innocent purchasers for value and in good faith of lands registered under TCT Nos. S-61176 and S-61177;

2. **G.R. No. 123751, Heirs of Irene Garcia v. Court of Appeals, et al., 21 October 1996**, which affirmed *in toto* the CA Decision dated 27 November 1995 in CA-G.R. CV No. 45297. The Supreme Court held that TCT Nos. S-61176 and S-61177, cancelling TCT No. 31346, cover a property located in Almanza, Las Piñas, Metro Manila;

3. **G.R. No. 141145, Republic v. Wilson Orfinada, Sr., and Lucrecia K. Orfinada, 12 November 2004**, which upheld the Spouses Orfinada's TCT No. 38910-A as a valid title including its antecedent title OCT No. 383 in the name of Guillermo Cruz, thereby denying the Republic's petition and affirming the "Joint Decision" of the appellate court in CA-G.R. CV No. 32815;

4. **G.R. No. 194029, Antonio V. Martel, Jr. and Spouses Pepito and Violeta Ng v. Wilson Orfinada, Sr. represented by Alice Africa, 30 May 2011** which denied the petition of Antonio V. Martel (Martel) and the Spouses Pepito and Violeta Ng (Spouses Ng), who all likewise claim ownership over the subject property, specifically 185,317 sq m. thereof, and upheld the Decision of the appellate court ruling on procedural matters. Ultimately, this case dismissed the cross claim of Martel and the Spouses Ng against the Spouses Orfinada (all defendants in the suit for annulment of title filed by ISIA against them), for failing to file a written motion for reconsideration of the trial court's order of dismissal. However, on motion for reconsideration of Martel and the Spouses Ng which we eventually denied *via* a Minute Resolution dated 1 April 2014, we remanded the case to the Court of Appeals for the purpose of hearing and receiving evidence to determine all parties' conflicting claims of ownership over the subject property.

We now proceed to the factual antecedents of this case before us. Herein respondent Insurance Savings and Investment Agency, Inc. (ISIA) filed a Special Civil Action for *Mandamus* under Rule 65 of the Rules of Court before the RTC, Las Piñas City, against the Register of Deeds of Las Piñas City praying that the latter be commanded to: (a) cancel TCT No.

38910-A issued in the name of the Spouses Orfinada, and thereafter, (b) issue a new title to the subject property in the name of ISIA.

In its petition for *mandamus*, ISIA primarily alleged that in 1981, ISIA purchased from the Spouses Orfinada, through their then attorney-in-fact, Modesto Jimenez (Jimenez), the subject property covered by TCT No. 38910-A. The sale is evidenced by a Deed of Absolute Sale executed on 18 May 1981 signed by ISIA and Jimenez.

For clarity, considering that the subject property in this case is likewise the subject matter in at least four (4) other cases concerning the ownership and titling thereof, which has already resulted in conflicting rulings used as basis by various opposing parties, we quote the trial court's narration of antecedents to confine our holding herein to only the pertinent legal issues before us:

[T]he following taxes and fees were paid for purposes of the transfer of ownership, to wit:

- a. [R]eal estate taxes as shown by real property tax receipts (Annexes "H" to "H-5" of petition);
- b. [C]apital gains tax in the amount of Php44,322,600.00 as shown by capital gains tax return form no. 1706 (Annex "J") and Land Bank BIR tax payment deposit slip (Annex "J-1");
- c. [D]ocumentary stamp tax in the amount of Php1,385,550.00 as shown by the documentary stamp tax declaration/return BIR form no. 2000-OT (Annex "K") and the Land Bank BIR Tax payment deposit slip (Annex "K-1"); and
- d. BIR certification fee of Php100 as shown by BIR Payment Form No. 0605 (Annex "L").

On the basis of the foregoing payments made by [ISIA], the Bureau of Internal Revenue issued on 28 June 2012 a Certificate Authorizing Registration (CAR) and Tax Clearance Certificate No. OCN 9TA0000219327 in favor of [ISIA] x x x. In addition, [ISIA] paid the amount of Php11,068,764.93 representing the transfer tax, surcharge, monthly interests and confirmation fee assessed by the Office of the City Assessor of Las Piñas. Subsequently, a Confirmation of Payment No. 014149 was issued by the Office of the Treasurer of Las Piñas City confirming that [ISIA] paid the transfer tax due on the subject title x x x.

After completing all the necessary requirements for the transfer of title, [ISIA] then went to the Registry of Deeds to submit for registration the Deed of Absolute Sale together with all supporting documents including the surrender of the owner's duplicate copy of TCT No. 38910-A x x x.

However, the then Registrar of Deeds, Atty. Joel Paner, denied the registration of the sale on the ground that another owner's duplicate copy of the subject title is in possession of a certain Alice Africa [herein respondent]. Atty. Paner further stated in his Notice of Denial dated 24 August 2012 that the subject title bears the annotation of the affidavit of Alice Africa x x x.

Atty. Joel Paner filed his Comment on the Petition recognizing the validity of the sale of the subject property by the Sps. Wilson Orfinada and Lucrecia Kiocho in favor of ISIA by virtue of the Decision dated 12 November 2004 rendered by the Supreme Court in *Republic of the Philippines v. Sps. Orfinada*, G.R. No. 141145. Atty. Paner also aver that under normal circumstances, the transfer of title is immediately effected upon payment of the necessary government taxes but in this case, registration of the sale can be done provided that the affidavit of Alice Africa is carried over to the new title.

Although not impleaded as one of the respondents [therein], Alice Africa [herein petitioner] filed a Vehement Opposition on the instant petition contending primarily that the sale between ISIA and Sps. Orfinada represented by their attorney-in-fact Modesto Jimenez is tainted with fraud hence not valid. [Africa] anchors her argument on the Order dated 3 December 1993 rendered by Branch 150 of RTC in Makati City in LRC Case No. M-2917, directing defendant Jimenez to surrender to the Register of Deeds of Las Piñas City the owner's duplicate copy of TCT No. 38910-A (13674-A) based on the findings of the said court, among others, that the sale of the subject property between Jimenez and ISIA is void ab initio. The Order dated 3 December 1993 was affirmed by the Court of Appeals in its Decision dated 14 March 1997 and by the Supreme Court in its Resolution dated 25 August 1997.<sup>3</sup>

At this stage of the proceedings, with Africa as oppositor, the RTC rendered the assailed decision, granting ISIA's petition for *mandamus*, thus ordering the Register of Deeds to: (a) register the Deed of Absolute Sale executed by ISIA and the Spouses Orfinada and its supporting documents, (b) cancel TCT No. 38910-A, and (c) issue a new title to the subject property in the name of ISIA. The RTC disposed of the special civil action in this wise:

Alice Africa could have supported her claim of being in possession of the subject title when she filed her opposition. While she attached several documents to her petition[,] x x x she failed to append thereto a copy of the alleged second owner's duplicate copy of the title. The omission is quite telling of whether or not Africa is indeed in possession of the subject title.

The Registry of Deeds gave too much faith on a mere claim in the affidavit of Alice Africa annotated on the title connecting this to the 1993 Order of the Makati Court. Such reliance is misplaced as the affidavit is self-serving and unsubstantiated. Atty. Joel Paner, the Registrar of Deeds,

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<sup>3</sup> Id. at 31-32.

appears to have realized his misplaced reliance when he eventually corrected it in his Comment by saying that the registration of the sale of the subject property in favor of ISIA can be effected. Significantly, the acting Registrar of Deeds, Atty. Abraham N. Vermudez, who replaced Atty. Paner did not adopt this misplaced reliance in his memorandum and opted not to tackle this issue. Again, the 1993 Order of the Makati Court is mum on the authority of Africa to take possession of the title.

Undeniably, the Registry of Deeds has a public duty towards [ISIA] to admit the sale documents for registration. The said office cannot assume that another copy of the title exists based merely on the affidavit.

WHEREFORE, in view of the foregoing, the instant petition is hereby GRANTED. The Registry of Deeds for Las Piñas City is hereby immediately commanded to proceed with the registration of the Deed of Absolute Sale dated 18 May 1981 executed by Sps. Wilso P. Orfinada and Lucrecia Kiocho and [respondent] ISIA together with all supporting documents and thereafter, to cancel Transfer Certificate of Title No. 38910-A issued in the name of the Sps. Wilson P. Orfinada and Lucrecia Kiocho, and in lieu thereof, to issue a new title to the subject property in the name of [ISIA].

Anent the Urgent Motion for Recording of Attorney's Lien filed by movant Atty. Antonio M. Chavez, the same is hereby DENIED due course as this can be filed properly in a separate action.<sup>4</sup>

Africa and the Register of Deeds filed separate motions for reconsideration of the RTC's decision.

Both Africa and the Register of Deeds argued that the existence of the "owner's duplicate copy" of TCT No. 38910-A, with annotation of Africa's affidavit thereon, claimed to be in Africa's possession precludes the registration of the subject property in ISIA's name since it would result to double titling. On this score, the RTC noted that Africa failed to present and attach a certified true copy of the purported "owner's duplicate copy" in her possession, in numerous instances, to wit: (1) The Affidavit in Entry No. 4115-28; (2) Africa's Vehement Comment/Opposition to the Petition; (3) Africa's Urgent Motion for Reconsideration despite the trial court's observation that she failed to attach a copy of the supposed title to her Opposition; (4) Africa's Urgent Motion for Voluntary Inhibition; and (5) the two hearings scheduled by the RTC, on 1 and 8 March 2013, for the sole purpose of having Africa present the title for examination by the Register of Deeds and the trial court.<sup>5</sup>

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<sup>4</sup> Id. at 33-34.

<sup>5</sup> Id. at 55; Order dated 26 March 2013.

Prior to the scheduled 8 March 2013 hearing, Africa filed an “Urgent Motion to Dispense with the Appearance of Alice G. Africa to submit Owner’s Duplicate Copy of TCT No. 38910-A” with a condition for the RTC to order the National Bureau of Investigation (NBI) to escort her copy.

Curiously, Africa’s counsel, on 5 March 2013, filed a motion attaching a photocopy of her alleged “owner’s duplicate copy.” However, the Register of Deeds, upon a preliminary examination thereof on the scheduled 8 March 2013 hearing, found the document spurious.

In the herein assailed Order<sup>6</sup> dated 26 March 2013, the RTC denied the separate motions for reconsideration of Africa and the Register of Deeds, and Africa’s Urgent Motion to dispense with the Appearance of Alice G. Africa to submit the Owner’s Duplicate Copy of TCT No. 38910-A.

The RTC gave no evidentiary weight whatsoever to the copy of the document belatedly produced and presented by Africa’s counsel:

Court : Will you show that to the Register of Deeds. Are you familiar with this TCT?

Atty. Vermudez : I haven’t seen this, your Honor.

Court : You haven’t seen that?

Atty. Vernudez : I haven’t seen this. Since no transaction has been entered yet, your Honor.

Atty. Espiritu : Sa Amin Yan.

Atty. Vernudez : Is this the owner’s copy?

Atty. Espiritu : Yeah

Atty. Vernudez : I haven’t seen this.

x x x x

But just the same, the certified true copy presented in [c]ourt on March 8 by Atty. Espiritu is wanting in authenticity and credibility that [it] even failed to convince the Register of Deeds.

Ms. Africa must realize that it is her obligation to present her copy and the [c]ourt cannot be hoodwinked by her antics nor swayed by mere allegation. It is well-settled that the “**party alleging a fact has the burden of proving it as mere allegation not evidence. [sic]**” The [c]ourt needs proof and the Register of Deeds through his counsel agreed on this point when he stated that:

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<sup>6</sup> Id. at 54-59.

*Atty. Abesamis: x x x It is crucial, Your Honor, please, that the Owner's Copy in the possession of Oppositor Alice Africa will be likewise presented because that will give opportunity for the court to compare the original copy on file with the Registry of Deeds, as well as the owner's copy with the possession of Alice Africa, the new owner's copy, Your Honor, which was issued upon court directive.*

x x x x

This [c]ourt finds and so holds that Alice Africa's and her counsel's, Atty. Renecio Espiritu's, reasons for not presenting in court the subject owner's duplicate copy are not candid but evasive and adroitly conjured. x x x

x x x x

Accordingly, the failure of Alice Africa to prove her possession of a valid owner's duplicate copy of TCT No. 38910-A confirmed this [c]ourt's observation in its 14 November 2012 Decision that reliance by the Register of Deeds on Ms. Africa's affidavit to prove existence of her owner's duplicate copy of TCT No. 38910-A is "misplaced" and "the said office cannot assume that another copy of the title exists based merely on the affidavit" and that "the Register of Deeds has a public duty towards [ISIA] to admit the sale documents for registration. x x x

x x x x

WHEREFORE, the aforestated Motions for Reconsideration of the Decision dated 14 November 2012, respectively filed by the Register of Deeds of Las Piñas City and Alice Africa are DENIED for lack of merit. The Urgent Motion to Dispense with the Appearance of Alice G. Africa to submit the Owner's Duplicate Copy of TCT No. 38910-A is likewise DENIED.

The Register of Deeds of Las Piñas City is directed to cancel Entry No. 411528-28 in TCT No. 38910-A and thereafter comply with the [c]ourt's disposition in its 14 November 2012 Decision.<sup>7</sup>

Feeling aggrieved by the trial court's rulings, Africa, still on behalf of the Spouses Orfinada, filed the present petition for review on *certiorari*.

In this petition<sup>8</sup> filed on 19 April 2013, Africa alleged that her contract of agency with the Spouses Orfinada is coupled with interest without explicitly stating her interest therein. Conveniently, Africa failed to mention

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<sup>7</sup> Id. at 57-59.

<sup>8</sup> Id. at 3-27.

that both the Spouses Orfinada were already dead: Wilson in the year 2000, Lucrecia in 2012.

On 3 July 2013,<sup>9</sup> we deferred action on Africa's petition and required her to submit proof of authority to file it on behalf of the Spouses Orfinada who were the registered owners of the subject property covered by TCT No. 38910-A, the title herein sought to be annulled by ISIA and then titled in its name.

Africa filed a Compliance<sup>10</sup> to our 3 July 2013 Resolution by maintaining that it has complied with the requirements of Section 1, in relation to Sections 4 and 7, of Rule 45 of the Rules of Court, and attaching the Special Power of Attorney (SPA) executed by the Spouses Orfinada in Africa's favor sometime in July 1997. Yet again, Africa failed to state the fact of the deaths of the Spouses Orfinada.

ISIA forthwith filed a Comment<sup>11</sup> to Africa's compliance moving for the outright dismissal of Africa's petition considering the deaths of the Spouses Orfinada, whose civil personalities were thereby extinguished and who can no longer be represented in this petition by Africa.

Africa filed a Reply<sup>12</sup> to ISIA's Comment to her Compliance which now explicitly argues that the contract of agency was not extinguished by the death of Africa's principals, the Spouses Orfinada, since the agency is coupled with interest. **For the first time, indirectly and collaterally, Africa claims ownership over the herein subject property.** Africa alleged in her Reply:

8. [Africa] is "Agent with Interest" because [the] Spouses Orfinada, during their lifetime, had already sold to [Africa] the [subject property] containing an area of 221,688 square meters located at Las Piñas City and covered by TCT No. (38910), 13674-A, the subject of this case. The photocopy of the Deed of Sale is hereto attached as **Annex "A"**.<sup>13</sup>

The purported Deed of Sale between Africa and the Spouses Orfinada is dated 5 June 1997, roughly a month prior to the Special Power of Attorney executed by the Spouses Orfinada in Africa's favor.<sup>14</sup>

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<sup>9</sup> Id. at 128.

<sup>10</sup> Id. at 129-137.

<sup>11</sup> Id. at 133-140.

<sup>12</sup> Id. at 145-151.

<sup>13</sup> Id. at 147.

<sup>14</sup> Id. at 152; Acknowledgement of Deed of Absolute Sale.



Subsequently, on 13 October 2014, Africa filed a Motion for Leave to Admit Compliance with Motion to Consolidate Case with G.R. No. 194029, one of the cases mentioned herein involving conflicting claims of ownership over the subject property by opposing parties, ISIA against Martel and the Spouses Ng (other transferees of the Spouses Orfinada) and the Spouses Orfinada. Africa's basis for her motion to consolidate is that the subject property herein is the same property involved in G.R. No. 194209.

Africa alleges, in pertinent part:

9. Verily, the instant case should be consolidated with G.R. No. 194209 which, significantly, is an offshoot of a main case filed by ISIA, Inc. prior to the finality of the judgment of the Regional Trial Court of Makati City, Branch 150 in LRC Case No. M-2917 entitled: "Orfinada, Sr., represented by Africa v. ISIA, Inc." x x x declaring the sale of the property subject of the instant litigation to ISIA, null and void. Consolidation of the two (2) cases will put to rest the conflicting claims of ownership by Orfinada, Sr., rep. by Alice Africa, ISIA, Inc., Martel, Jr. and the Spouses Ng over the same lot.

WHEREFORE, it is respectfully prayed that the Motion be **GRANTED** thereby **admitting** the attached Verification and Certification Against Forum Shopping, in the interest of justice, and **consolidating** the instant case with G.R. No. 194029 entitled: "Martel, Jr. and Sps. Ng vs. Orfinada, Sr."<sup>15</sup>

On 15 October 2014, ISIA filed a Respectful Motion to Dismiss the Petition<sup>16</sup> maintaining that the death of the Spouses Orfinada prior to the filing of the present petition extinguished the contract of agency between them and Africa, thus, this petition filed by Africa on behalf of the Spouses Orfinada should be dismissed.

Pending before us then is the sufficiency of Africa's petition to litigate this case before us in her own name. Effectively, Africa, without filing the appropriate registration proceedings, an original action, before a Regional Trial Court pursuant to law,<sup>17</sup> seeks to defend and protect herein the subject property covered by TCT No. 38910-A registered in the names of the Spouses Orfinada. Corollary thereto, as pending incidents resulting from Africa's **oblique** compliance to our 3 July 2013 Resolution, are: (1) the Motion to Consolidate this case with G.R. No. 194029 filed by Africa; and (2) Respectful Motion to Dismiss this petition filed by ISIA.

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<sup>15</sup> Id. at 169.

<sup>16</sup> Id. at 179-182.

<sup>17</sup> Presidential Decree No. 1529, The Property Registration Decree.

Before anything else, we note that in G.R. No. 194209, Africa is simply a representative of the Spouses Orfinada who were sued by herein respondent ISIA claiming ownership of the subject property and seeking to annul TCT No. 38910-A. ISIA filed a case for annulment of title against the Republic of the Philippines and a Supplemental Complaint No. 9 against Wilson Orfinada, Martel and the Spouses Ng.

While we ultimately denied the petition in G.R. No. 194209 for absence of reversible error in the assailed ruling of the appellate court, we remanded the case to the Court of Appeals for the purpose of hearing and receiving evidence to adjudicate the conflicting claims of ownership by the opposing parties (given the overall factual milieu herein) over the subject property. In our 1 April 2014 Resolution<sup>18</sup> in G.R. No. 194209, we noted, thus:

We take note that petitioners' [Martel's and the Spouses Ng's] right over the subject land has been upheld by the Supreme Court in several cases and they were even considered as innocent purchasers in good faith and for value. Nevertheless, taking into consideration that Orfinada's title was also upheld by no less than this Court in another Decision, we hold that the petitioners and Orfinada's rights have been established separately, only that these were determined against their corresponding opposing parties in those cases. Pitted against each other, however, **the petitioners and Orfinada would have to present evidence anew as this Court cannot cancel a Torrens title without a direct proceeding for that purpose.** Section 48 of the Property Registration Decree provides: (Emphasis supplied)

Section 48. *Certificate not subject to collateral attack.* A certificate of title shall not be subject to collateral attack. **It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law.**

Based on the evidence to be presented in appropriate proceedings, this Court may finally adjudicate whose title should be annulled. It must be borne in mind that the petition is but an offshoot of a main case, which might be improperly affected by any shortcut in the proceedings. "[C]onsidering that there are factual and legal issues that still need to be threshed out, and that this Court is not a trier of facts, the appropriate action is to remand the case to the CA for further proceedings."<sup>19</sup>

Palpable, even in this case, is the existence of factual issues which we cannot pass upon.<sup>20</sup> However, such finding still does not translate to the sufficiency of Africa's petition to litigate in her own name the issue here

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<sup>18</sup> Id. at 173-178.

<sup>19</sup> Id. at 176.

<sup>20</sup> *Manotok IV v. Heirs of Homer L. Barque*, 595 Phil. 87, 218 (2008); Separate Concurring Opinion of Justice Antonio T. Carpio.

which is whether the Register of Deeds *via* a writ of *mandamus* may be compelled to cancel TCT No. 38910-A and issue a new title over the subject property in the name of ISIA.

Even without delving into the factual finding of the court *a quo* in this case that Africa, through subterfuge, never even presented a certified true copy of the “owner’s duplicate copy” which she claims to be in her possession, **we deny due course to this petition**, Africa not being a proper party under Rule 3, Section 3 of the Rules of Court which reads:

Sec. 3. *Representatives as parties.*— Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of the case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal.

In her Compliance, Africa quotes Sections 1,<sup>21</sup> 4,<sup>22</sup> and 7<sup>23</sup> of Rule 45 of the Rules of Court, insisting that she has complied with the requisites for the filing of an appeal by *certiorari* thereunder. Sticking out of the cited Rule, however, is the first section, first sentence which unequivocally states: “A **party** desiring to appeal by *certiorari* from a judgment, final order or resolution x x x.”

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<sup>21</sup> Section 1. *Filing of petition with Supreme Court.* A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

<sup>22</sup> Sec. 4. *Contents of petition.* The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42.

<sup>23</sup> Sec. 7. *Pleadings and documents that may be required; sanctions.* For purposes of determining whether the petition should be dismissed or denied pursuant to section 5 of this Rule, or where the petition is given due course under section 8 hereof, the Supreme Court may require or allow the filing of such pleadings, briefs, memoranda or documents as it may deem necessary within such periods and under such conditions as it may consider appropriate, and impose the corresponding sanctions in case of non-filing or unauthorized filing of such pleadings and documents or non-compliance with the conditions therefor.

In this instance, with the death of the Spouses Orfinada and despite the claim of ownership by Africa over the subject property, Africa is not the proper party to file an appeal by *certiorari* from the adverse rulings of the trial court. Section 3 of Rule 3 of the Rules of Court is explicit on the requirement that an agent as party may sue without joining the principal except when the contract involves things belonging to the principal. The herein subject property is ostensibly owned by the Spouses Orfinada covered by TCT No. 38910-A registered in their names. This TCT No. 38910-A is one of the titles ISIA seeks to annul as part of its claim of ownership over vast tracts of land bounded by the Pasig River in the North, by the Tunisan River in the South, by Laguna de Bay in the East, and by the Manila de Bay in the West. The claim covers about 143,102,167 sq. m., more or less, comprising one-half of Metro Manila. ISIA's claim includes the subject parcel of land covered by TCT No. 38910-A, which ISIA seeks to recover from herein parties resulting in all kinds of litigation between the opposing parties, including this suit for *mandamus* before the court *a quo*.<sup>24</sup> **Africa's belated claim of ownership via purchase cannot make her a proper party to this case and circumvent the requirements for establishing ownership over the subject property.**

We can draw a parallel ruling from *Tamondong v. Court of Appeals*,<sup>25</sup> where we specifically ruled that the lack of authority of the representative from the real party-in-interest, results in the complaint deemed as not filed. It does not make the representative as the actual *plaintiff* in the case. We held, thus:

If a complaint is filed for and in behalf of the plaintiff who is not authorized to do so, the complaint is not deemed filed. An unauthorized complaint does not produce any legal effect. Hence, the court should dismiss the complaint on the ground that it has no jurisdiction over the complaint and the plaintiff. **On the other hand, if a complaint is filed by an agent or plaintiff, for and in behalf of the principal, the plaintiff who is merely the agent is not the proper party. The reason being that every action must be presented in the name of the real party-in-interest.** The complaint may be dismissed on the ground that the plaintiff has no cause of action against the defendants, conformably to Section 1(g), Rule 16 of the 1997 Rules of Civil Procedure.<sup>26</sup> (Emphasis supplied)

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<sup>24</sup> See *Martel, Jr. and Spouses Ng v. Wilson Orfinada, Sr., represented by Alice Africa*, G.R. No. 194209, Resolution of 30 May 2011.

<sup>25</sup> 486 Phil. 729 (2004).

<sup>26</sup> *Id.* at 740-741.

Moreover, it has not escaped our attention that while Africa claims to be a representative of the Spouses Orfinada, armed with an SPA, she simultaneously claims filing and litigating this case on her own. As we have already observed, Africa is using a shotgun approach to **obliquely, indirectly and collaterally**, claim ownership over the subject property to ensure her continued participation in this litigation.

Without meaning to point Africa to the appropriate remedies she should have taken or could have availed of to protect and defend her claim over the subject property,<sup>27</sup> we mention the following to accentuate the shortcomings of her present position:

1. With the deaths of the Spouses Orfinada, the subject property registered in their names became part of their estate with the heirs, compulsory or otherwise, having inchoate right thereto where rights to the succession vests from the moment of death of the decedent.<sup>28</sup>
2. As part of the decedents' estate, rights over property included therein is settled and litigated by the administrator or executor of the estate.<sup>29</sup>
3. To establish her claim over the subject property and for the proper titling thereof, the Civil Code and the Property Registration Decree maps out the remedies of Africa.

Finally, despite the remand of G.R. No. 194209 to the Court of Appeals for hearing and reception of evidence to finally adjudicate whose title over the subject property should be annulled, we cannot consolidate this petition filed in Africa's name with G.R. No. 194209, this petition being an offshoot of the *mandamus* case filed by ISIA against the Register of Deeds.

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<sup>27</sup> *Cayetano v. COMELEC, et al.*, 663 Phil. 694, 704 (2011).

<sup>28</sup> Civil Code, Art. 777.

<sup>29</sup> See Rules 86 on Claims against Estate and 87 on Actions by and Against Executors and Administrators of the Rules of Court.

G.R. No. 194209 involves the conflicting claims of ownership over the subject properties initiated by ISIA against Wilson Orfinada, Martel and the Spouses Ng. The validity of TCT No. 38910-A is already part of G.R. No. 194209 and is a completely different legal issue from the issue raised in this petition, involving a separate question of law, *i.e.*, whether the court *a quo* correctly issued the writ of *mandamus* to compel the Register of Deeds to register the subject property in ISIA's name and cancel TCT No. 38910-A, the title to the subject property in the Spouses Orfinada's name. The only commonality between G.R. No. 194209 and this petition is TCT No. 38910-A and the subject property itself.


As a final caveat, our holding herein is only confined to Africa's preclusion from continuing to litigate this appeal by *certiorari*. We do not rule on the correctness and propriety of the Decision and Order of the RTC as such can only be questioned and assailed by the proper party.

**WHEREFORE**, the petition is **DENIED DUE COURSE**, petitioner Alice Africa not being a proper party to question the Regional Trial Court's Decision and Order dated 14 November 2012 and 26 March 2013, respectively, in SCA Case No. 12-0010.

**SO ORDERED.**

  
JOSE PORTUGAL PEREZ  
Associate Justice

**WE CONCUR:**

  
MARIA LOURDES P. A. SERENO  
Chief Justice  
Chairperson

*Teresita Leonardo de Castro*  
**TERESITA LEONARDO-DE CASTRO**  
Associate Justice

*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

*Estela Perlas Bernabe*  
**ESTELA PERLAS BERNABE**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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*  
**MARIA LOURDES P. A. SERENO**  
Chief Justice