

44 Phil. 587

[G.R. No. 20159. March 05, 1923]

HILARION TIMBOL, PETITIONER, VS. HONORABLE ANACLETO DIAZ, JUDGE OF THE SIXTH JUDICIAL DISTRICT, THE SHERIFF OF TARLAC AND HIS DEPUTY, THE JUSTICE OF THE PEACE OF CONCEPCION, TARLAC, AND PEDRO N. LIONGSON, RESPONDENTS.

D E C I S I O N

OSTRAND, J.:

It appears from the record of the present case that the respondent Pedro N. Liongson holds a Torrens certificate of title for a tract of land including lot No. 802 of the cadaster of the municipality of Concepcion, Tarlac, which certificate is based on a decree of the Court of Land Registration in an ordinary land registration proceeding. The petitioner Hilarion Timbol holds a certificate of title based on a free patent issued under Chapter 4 of Act No. 926.

At the beginning of the cadastral registration which embraced said lot No. 802, both Hilarion Timbol and Pedro N. Liongson appeared and laid claim to the ownership of the lot on the strength of their respective certificates of title. The trial court held that the title shown by the certificate of Liongson prevailed over the free patent certificate of title presented by Timbol and in a decision dated June 29, 1922, adjudicated the land to the former. Timbol excepted to the decision and filed a motion for a new trial but failed to bring the motion to the attention of the court and did not appeal. On September 6, 1922, the court, on motion of Liongson, declared the decision final and ordered that a final decree for said lot No. 802 be issued and that thereafter a writ of possession be issued in favor of Liongson. At the hearing of the motion Timbol appeared by his co.unsel in opposition, but again failed to appeal.

Timbol as petitioner in the present case alleges that the court below

exceeded its jurisdiction in attempting, in a cadastral proceeding, to pass upon the title to land already registered and in ordering that a final decree of registration be issued for such land. He therefore asks that a writ of certiorari issue directing the respondent judge to forward to this Court for review a certified copy of such portions of the record of the aforesaid cadastral proceedings as relate to lot No. 802; that, thereupon, the decisions, orders, and decrees of said Court of First Instance of Tarlac, relative to cadastral lot No. 802 be declared null and void and in excess of its legal powers and jurisdiction; and that the petitioner Hilarion Timbol be declared the absolute and exclusive owner of said cadastral lot No. 802, with the crops and improvements thereon.

The petition must be denied for two reasons. In the first place, the petitioner appeared in the cadastral case and had an adequate remedy by appeal. Under such circumstances, certiorari will not lie.

In the second place, we do not think the court below exceeded its jurisdiction in undertaking, in a cadastral case, to determine the relative rank of the two certificates of title in question and, in its ultimate analysis, that is the effect of the court's action. The court erred in ordering the issuance of a new final decree in favor of the respondent Liongson; it should have limited itself to ordering the cancellation of both certificates of title and the issuance of a new transfer certificate of title in favor of Liongson, in which new certificate the land should be described in accordance with the results of the cadastral survey. But the new decree rests on the former decree which is not reopened or set aside; the error of the court therefore does not go to the jurisdiction and cannot be reached by certiorari.

The petitioner may have been misled by our statement in the case of *Pamintuan vs. San Agustin* (43 Phil., 558) that "in cadastral cases the jurisdiction of the court over lands already registered is limited to the necessary correction of technical errors in the description of the lands, provided such corrections do not impair the substantial rights of the registered owner, and that such jurisdiction cannot operate to deprive a registered owner of his title."

This statement while in the main true is, perhaps, a little too broad in so

far as it may be construed to exclude from the jurisdiction of the court the power to determine the priority of over-lapping or over-lying registered titles. An examination of the decision in which the statement occurs will show that it is based on the self-evident proposition that when a title has been finally and definitely settled in a registration proceeding by a decree of a court of competent jurisdiction, the decree cannot be reopened in a cadastral case, a proceeding of the same general character. There is nothing in this proposition which militates against allowing the court in a cadastral case to determine which one of several conflicting registered titles shall prevail. This power would seem to be necessary for a complete settlement of the title to the land, the express purpose of cadastral proceedings, and must therefore be considered to be within the jurisdiction of the court in such proceedings. And, as already stated, no final decree of registration was reopened or set aside by the court below in the present instance.

For a discussion of the weight of a certificate of title issued by virtue of a patent, see *De los Reyes vs. Razon* (38 Phil., 480).

The petition for a writ of certiorari is denied without costs.

Araullo,
C.J., Street, Avanceña, Villamor, Johns, and Romualdez, JJ.,
concur.

CONCURRING

MALCOLM, J.:

I concur for the first reason set out in the decision.
