

[G.R. No. L-9953. December 26, 1956]

**AGUSTIN ABULOCION, ANACORETA DE ABULOCION AND FABIO BURGOS,
PETITIONERS, VS. COURT OF FIRST INSTANCE OF ILOILO, BRANCH III, THE
PROVINCIAL SHERIFF OF ILOILO AND CARLOS LEGISLADOR, RESPONDENTS.**

D E C I S I O N

FELIX, J.:

The Case.—In the Court of First Instance of Iloilo there was a land registration case (No. V-5, G.L.R.O. Rec. No. 55804), covering Lots 1 and 2 described in Plan Psu-38526 situated in the *sitio* and *barrio* of Dangola-an, municipality of Anilao, province of Iloilo. In that case Alfredo Apurada and the heirs of Benedicto Apurada were the applicants and Pablo Arandilla, Santiago Arandilla and the Directors of Lands, Forestry and Fisheries were the oppositors (Annexes A, B and C). After proper proceedings, the Court rendered decision (Annex D) wherein Lots 1 and 2 were decreed in favor of the applicants in the proportion mentioned in the decision, with the exception of the fishpond area of 12 hectares comprised within Lot No. 1 which was adjudicated to the oppositors Santiago and Pablo Arandilla. All the parties appeal from said decision (Annex D) to the Court of Appeals and later to this Superiority which affirmed the decision with regard to Lot No. 2 but reversed it in so far as the whole Lot No. 1 that was declared public land (Annex E, promulgated February 21, 1955).

In the early part of *August, 1955*, Agustin Abulocion learned that said Lot No. 1 was declared public land and filed with the Department of Agriculture and Natural Resources an application for either lease or fishpond permit of the area possessed by him that was included in said Lot No. 1 but he was informed by the Bureau of Fisheries that a portion of 10 hectares in said Lot No. 1 was covered by a fishpond permit issued on *July 15, 1955*, in the name of respondent Carlos Legislador (a priest). Petitioner Agustin Abulocion then requested the Bureau of Fisheries, through counsel, that an investigation be made by said Bureau of the conflicting interests existing in said portion of 10 hectares, for the purpose

of cancelling the fishpond permit issued to Carlos Legislador. The investigation was accordingly set for hearing by the District Fishery Officer of Iloilo (Annex F), though by agreement of the parties it had to be postponed to November 16, 1955 (Annex G).

It so happened, however, that on August 17, 1955, the Provincial Fiscal of Iloilo in representation of the Director of Fisheries filed with the respondent Court an ex-parte motion praying for a writ of possession directing the respondent Sheriff to place Rev. Fr. Legislador or his administrator Marcelino Montano in possession of the fishpond area covered by Spl. Use Permit (F-37-A.) included in said Lot 1, Plan Psu-38526 (Annex H), and respondent Judge Felixberto Imperial Reyes presiding the Court issued on the same date the order applied for by the Fiscal (Annexes I and J), and pursuant to these orders, Deputy Provincial Sheriff of Iloilo Juan F. Carreon executed and served on August 18, 1955, the writ of possession on the petitioner spouses and his father-in-law Custodio Apil, who is one of the Apurada heirs, and on petitioner Fabio Burgos, the watcher of the Abulocions, and on the same date delivered the possession of the fishpond area to the representative of respondent Carlos Legislador, named Marcelino Montano, who issued the corresponding receipt therefor (Annexes X and Y of the answer).

The spouses Abulocion claim that they have spent a considerable amount of money for the construction of the fishpond included in the aforesaid Lot No. 1 and had been in possession thereof since 1944, having acquired the same by cession and purchase of the rights of the heirs of Benedicto Apurada and Alfredo Apurada, and, consequently, they filed an urgent motion with the respondent Court, which was later amended (Annexes K and L), requesting that the order for and the writ of possession issued be set aside, but said motion, as amended, was denied by the Court on September 6, 1955, as well as the motion for reconsideration (Annex M) filed by said spouses.

In such state of affairs, respondent Carlos Legislador filed a motion for contempt dated September 7, 1955, which the Court granted, praying that petitioners be cited to appear before it on September 17, 1955, to explain why they should not be punished for contempt. But inasmuch as the respondent Court was of the opinion that it was premature to cite the petitioners for contempt before the motions for reconsideration (Annex M) would have been acted upon, the hearing of the motion was, postponed indefinitely.

On November 4, 1955, petitioners motion for reconsideration (Annex N) was denied (Annex O) and petitioners were cited to appear on November 12, 1955, to answer the

charge of contempt (Annex P). But the hearing of the motion for contempt was again postponed by the Court (Annex S) at the request of the petitioners, who announced their intention to file a petition for certiorari and prohibition with this Court.

Predicated on the foregoing facts, petitioners pray Us to declare null and void the order dated August 17, 1955 (Annex I) issued by the respondent Court providing for the issuance of the writ of possession (Annex J) in land registration case No. V-95, G.L.R.O. Record No. 55804, and all orders issued by the respondent Court in connection therewith, as well as all actuations of the respondent Provincial Sheriff in relation to said writ of possession, specially the service of the writ which was issued without or in excess of jurisdiction or with grave abuse of discretion tantamount to lack of jurisdiction; and that pending final determination of the special civil action of certiorari and prohibition, a writ of preliminary injunction be issued (as it was issued by this Court upon the filing by petitioners of a bond in the sum of P1,000) restraining the respondents from molesting, interfering and arresting the petitioners in their alleged peaceful possession of the land in question.

On the other hand, respondent Carlos Legislador avers in his answer to the petition that he has been in possession of the fishpond area under a permit from the Government since 1932; that when petitioner Agustin Abulocion took possession thereof sometime after March, 1950 (not in 19UU as alleged by him), it was already well-improved by him (Legislador) and whatever expenses the petitioners incurred in it must have been only for ordinary repairs; that petitioner bulocion could not have acquired the fishpond area by cession and purchase from the Apurada heirs because there is no document of any such transaction and his predecessors in interest had been defeated parties in said registration case wherein lot 1 comprising said area was declared public land; that petitioner Abulocion had not merely been informed about but was served with a copy of the writ of possession in question by Deputy Provincial Sheriff Jose P. Carreon on August 18, 1955, through his father-in-law Custodio Apil, also one of the defeated Apurada heirs; that Court order (Annex I) dated August 17, 1955, for the issuance of the writ of possession objected to was dictated at the instance of the Director of Fisheries who, instead of requesting that said fishpond area be delivered to him, as representative of the Government and actual administrator thereof, so that he could later deliver the same to respondent Carlos Legislador, merely asked that said fishpond area be delivered directly to respondent Carlos Legislador, the recognized and long standing government permittee who had been unlawfully deprived of said fishpond area by petitioner Abulocion even before this Court rendered final decision in said registration case; that before the commencement of said

land registration case, fishpond permit No. F-74-B covering the fishpond area in question was issued on February 1, 1925, in favor of Vicente Apurada, one of the Apurada heirs, applicants, but he definitely sold all his rights and interests thereto on January 26, 1932, to Frs. Carlos Legislador and Tomas Paguntalan (Annexes C, D and E of the answer) and Fr. Tomas Paguntalan in turn sold all his rights and interests over the fishpond area to Fr. Carlos Legislador; that subsequently, Fr. Legislador applied for a fishpond permit over the area from the Division of Forest, Fauna and Grazing, Bureau of Forestry, and said permit which the latter issued to him has been renewed from year to year without interruption until 1941 when the war between Japan and the United States commenced; that during the entire duration of the last war, respondent Legislador remained in possession of the questioned area and a permit therefor was renewed on November 10, 1945 (Annex F), as per Ordinary Fishpond Permit (Renewal No. F-37-A) and again renewed since 1946 until 1949 (Annexes F, G, H, I and J).

The Issues.—As may be seen from the foregoing narration of the facts appearing on record, the questions at issue submitted to our consideration are reduced to the following propositions:

1. Whether the order (Annex I) for the issuance of the writ of possession (Annex J) to respondent Carlos Legislador is illegal or not, the latter not being a party in the land registration case of Lot No. 1, Plan Psu-38526, nor a successor in interest of either the applicants or the oppositors.
2. Who of the parties, the petitioners or the respondent Carlos Legislador, has a better right to the enjoyment and possession of the fishpond area involved in this case?
3. Considering that the fishpond area herein involved is a public land which exclusively belongs to the Government, has the respondent Legislador, who is not the owner or successor in interest of the owner of said property, any right to file the contempt charge? And
4. Are the petitioners herein liable for contempt of court for allegedly having violated the order of the Court (Annex P) ?

Discussion of the controversy.—There can be no question that Fr. Carlos Legislador was the authorized previous possessor of the fishpond area in litigation and that it was in March, 1950, when petitioner Agustin Abulocidn unlawfully deprived him of such possession on the claim that he had acquired that area by cession and purchase from the Apurada heirs who, later developments showed, had no right over the same which was declared public land,

In *Yuson et al. vs. Diaz*, 42 Phil. 22, 27, it was held, that:

“By virtue of section 17 of the Land Registration Law, as amended by section 5 of Act No. 1108, the Court of Land Registration may, in cases falling within its jurisdiction, enforce its orders, judgments or decrees in the same manner as Courts of First Instance, *and in this connection it may issue writs of possession*, ordering the governor or sheriff of any province or of the City of Manila to place the petitioner in” possession of the property included in the decree of the court rendered in his favor”— *Pasay Estate Co. vs. Del Bosario*, 11 Phil. 391.

But petitioners contend that they were in possession of the fishpond area at the time the writ of possession (Annex J) was issued and as stated in the same *Yuson* case supra:

“When other persons have *subsequently* entered the property, claiming the right of possession thereto, the owner of the registered land, or his successors, *cannot dispossess such persons by merely asking for a writ of possession*. * * * In order to recover the ownership or possession of land possessed by a third person, it is absolutely indispensable to resort to the proceedings established by law. This court has repeatedly declared that it is sufficient for a person to be in possession in order that he may be respected in the possession enjoyed by him of a real property, so long as no other claimant appears who has and proves a better right (*Dancel and Mina va. Ventura*, 24 Phil. 421). He who believes himself entitled to deprive another of the possession of a thing, so long as the possessor refuses delivery, must request the assistance of the proper authority. (Art. 441, Civil Code). In other words, he who believes himself entitled to deprive another of the possession of real property must come to the courts of justice, instituting, as the case may be, an action for unlawful entry or detainer under section 80 of the Code of Civil Procedure, or the revindicatory action authorized by article 348 of the (old) Civil Code” (*Yuson et al. vs. Diaz*, 42 Phil. 22, 27).

The doctrine cited is sound but petitioner’s contention is untenable in the case at bar. The reasons are obvious, for it should be remembered that it was prior to the decision of this Court declaring Lot No. 1 a public land, that petitioners allegedly derived their

pretended rights from the Apurada heirs, the applicants in said registration case, and that it was also before the promulgation of Our decision therein that petitioners claim to have taken possession of the fishpond area in controversy; and that when Our said decision became final, petitioner Agustin Abulocion tried to secure a lease or fishpond permit from the Government because his rights of ownership and possession over said land had been voided by the defeat of his predecessors in interest in the registration case. Now, as the Government has the right to deliver possession of said fishpond area to whoever the Bureau of Fisheries would deem more qualified to receive the same (and no one had a better right to possess that fishpond area than Fr. Carlos Legislador who had been the grantee thereof for many successive and continued years), We do not see any reason why the Government could not ask the Court for a writ of possession after having won that registration case and after said area was declared a public land. Nor We find any illegality in the petition filed by the Provincial Fiscal of Iloilo, in representation of the Bureau of Fisheries, requesting that Fr. Legislador be placed in possession thereof instead of the Bureau of Fisheries that administered the same for the Government of the Philippines. This Court has already held that:

“A writ of possession may be issued not only against the person who would be defeated in a registration case, but also against any one adversely occupying the land or any portion thereof during the land registration proceedings” (Pasay Estate Co. vs.. De la Rosa, 11 Phil. 391; Manlapas et al. vs.. Lorente, 48 Phil. 298). The issuance of a decree is a part of the registration proceedings. In fact it is supposed to end the said proceedings. Consequently, any person unlawfully and adversely occupying said lot at any time up to the issuance of the final decree, may be subject to judicial ejectment by means of a writ of possession and it is the duty of the registration court to issue said writ when asked for by the successful claimant” (Demorar vs.. Ibanez et al., 97 Phil., 72; 51 Off. Gaz. [6] p. 2872).

Also in the case of Romansanta et al. vs.. Servillano Platon, 34 Off. Gaz., No. 76, number of June 25, 1936, it was held that “in a registration case the judgment confirming the title of the applicant and ordering its registration in his name necessarily carried with it the delivery of possession which is an inherent element of the right of ownership. The issuance of the writ of possession is, therefore, sanctioned by existing laws in this jurisdiction and by the generally accepted principles upon which the administration of justice rests”.

On the strength of the doctrines of this Court aforequoted, We do not find any reason to void the orders (Annexes I and J) nor the actuations of the respondent Sheriff in connection therewith. It is true that respondent Carlos Legislador is not a party in the registration case nor a successor in interest of the winning party therein, the Republic of the Philippines, but he is just the same entitled to the possession of the fishpond area in question because it was given to him by virtue of the permit issued to him by the Director of Fisheries who was a party in that case and had the administration of fishponds comprised within public lands. Consequently, We hold that the lower court can legally proceed with the hearing and determination of the motion for contempt filed by respondent Legislador.

Wherefore, the petition for certiorari and prohibition applied for by petitioners is hereby dismissed and the writ of preliminary injunction lifted, with costs against petitioners. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.
