

102 Phil. 1040

[ G.R. No. L-10865. February 13, 1958 ]

**EUFROSINA, PRESENTACION, ROSALIA, PRESCILLA, MATIAS, ALEJO, ANESIA, AMALIA, DIONISIO, AND LUZ ALL SURNAMED LAURON, PETITIONERS VS. HON. JUDGE HILARION U. JARENCIO, COURT OF FIRST INSTANCE OF ILOILO AND PACIFICO ESPINO, RESPONDENTS.**

## **D E C I S I O N**

### **MONTEMAYOR, J.:**

This is a petition for certiorari with a prayer for a writ of preliminary injunction, to set aside the order of the Court of First Instance of Iloilo of April 19, 1956, ordering the petitioners herein to return the possession of Lot No. 2467-B of the Cadastral Survey of Dueñas, Iloilo, to Pacifico Espino, thereby restoring "the status quo of the parties existing at the time the writ of possession was issued on April 30, 1956" (should be 1954), which order is said to have been issued with grave abuse of discretion or in excess of jurisdiction of respondent Judge Hilarion U. Jarencio. Petitioners having filed the bond required, we issued the writ of preliminary injunction prayed for.

The facts to be gathered from the present petition, the pleadings filed by the parties with the Iloilo court (Cadastral Court), and the decision and orders of said court, ail regarding the said Lot No. 2467-B, may be briefly stated thus: It would appear that said cadastral lot was contested. Respondent Pacifico Espino claims that from the very beginning, he had filed with the Cadastral Court an answer claiming said Lot No. 2467-B way back in or before 1952, but that petitioners, heirs of Francisco Lauron, up to December 10, 1952, had never filed any original or reconstituted answer over said lot. He further claims that when the lot was called for hearing on November 4, 1952, there was no

other claimant except himself, and that an order of general default was issued against the whole world, particularly against Francisco Lauron, the deceased predecessor in interest of petitioners; and that said order of general default directed the Clerk of Court to receive the evidence for Pacifico Espino, but that he, Espino, failed to present his evidence then because he was not up-to-date in the payment of the land taxes; that on December 10, 1952, the lot was again called for hearing and upon failure of any party to appear, it was declared public land; that it was only in January or February, 1954 that the petitioners filed their answer or claim to the lot, and that on February 12, 1954, the herein petitioners filed a motion in court to set aside the order of December 10, 1952, declaring the lot public land; that although a copy of the motion was furnished Atty. Alfonso Sirilan, no copy was ever given to Pacifico Espino; Lauron, et al. vs. Judge Jarencio, et al, that when said motion of the herein petitioners was called for hearing on February 19, 1954, the court declared in open court that it would set aside the order of December 10, 1952 if the claimants would present receipts showing payment of taxes up to that year; that an order dated February 18, 1954 was issued by the lower court, finding" the motion of the petitioners well founded, and declaring without effect its order of December 10, 1952, which declared the lot in question public land; that on February 24, 1954, counsel for herein petitioners filed an *Urgent Manifestation* but furnished no copy thereof to Pacifico Espino, despite the fact that his claim to said lot was on record and his answer claiming it was still in the record of the case, and because of that lack of notification, he, Espino, had no opportunity to oppose the *Urgent Manifestation*; that acting upon said Manifestation, the cadastral court issued its order of March 2, 1954, directing the Clerk of Court to receive the evidence for herein petitioners, heirs of Francisco Lauron, and that on the basis of said evidence, the Cadastral Court rendered its decision of March 4, 1954. This decision stated and held that Lot No. 2467-B had previously been declared public land because of the failure of the claimants, heirs of Francisco Lauron, to appear; that according to the evidence, the lot formerly belonged to Francisco Lauron, and that upon Francisco's death in 1933, he was succeeded by his children, Eufrosina,

Presentacion, Rosalina, Prescilla, and Carlos, the latter one being already dead; that the lot had been possessed by the heirs of Francisco Lauron, cultivating the same; that their possession, together with that of their predecessor in interest, was public, peaceful, continuous, and adverse and in the concept of owner, since before the year 1894, and adjudicated said lot to the heirs of Francisco Lauron.

On April 22, 1954, the heirs of Francisco Lauron (petitioners herein) filed a petition for a writ of possession of the lot, asking that Pacifico Espino and his children, who were supposed to have entered the lot, be ousted therefrom and that petitioners be placed in possession. The petition was granted, and on April 30, 1954, a writ of possession was issued, directing the Sheriff to place the heirs of Francisco Lauron in possession, and it seems that the sheriff complied with the order. In connection with said writ of possession, the trial court issued an order on September 28, 1954, saying that in connection with the motion for contempt filed by the heirs of Francisco Lauron, Maximino Palmares and Natividad Espino appeared and allegedly promised that they would not again enter the lot and Natividad Espino was given thirty days within which to remove her nipa hut from the premises.

On June 24, 1954, Pacifico Espino filed a petition to set aside the decision of March 4, 1954 and the writ of possession issued on April 30, 1954, alleging some of the facts already narrated about the failure of the heirs of Francisco Lauron to claim the lot in question, the previous declaration of said lot as public land by the court and the failure of the petitioners herein to notify him of their petition to have the order declaring the lot public land set aside and his consequent deprivation of the opportunity to oppose said petition and to show by means of evidence that he was the real owner of Lot No. 2467-B, having inherited it from his mother, Petra Labro, and that he and his mother had been in possession thereof for the last seventy years until he was ejected from it by virtue of the writ of possession said to have been illegally issued.

This petition of Espino was opposed by the heirs of Francisco Lauron, alleging that the lot in question had been surveyed as a

contested lot between Francisco Lauron, et al. and Angel Labro, et al.; that the reason the heirs of Francisco Lauron failed to appear when the lot was first set for hearing was because the notice was directed not to them, but to Francisco Lauron, who since then had died; that Espino, through his counsel, failed to present his evidence in support of his claim to the lot as a result of which, it was declared public land by order of December 10, 1952, and that despite said declaration, Espino had taken no steps to prosecute his claim and set aside the order until the herein petitioners, heirs of Francisco Lauron, filed a motion to set aside; that a copy of their motion was furnished Atty. Alfonso Sirilan, then counsel of record for Espino; and that despite said notification, said counsel although he was inside the court, did not oppose the motion nor opposed the presentation of their evidence.

Despite the opposition to the petition of Espino of June 24, 1954, the lower court by order of April 22, 1955, declared that it was of the opinion that the decision of March 4, 1954 should be set aside and that an "opportunity be given to all the parties concerned to present their respective claims over Lot No. 2467-B." The order ended by saying:

\* \* \* "In view thereof and in the interest of justice, the decision dated March 4, 1954 and the writ of possession dated April 30, 1954 are hereby set aside and the hearing on the ownership of Lot No. 2467-B should be set on an early date."

The heirs of Francisco Lauron filed a motion to reconsider the order of April 22, 1955, which motion was denied by order of May 28, 1955. On March 2, 1956, Pacifico Espino filed a petition "to restore him in the possession of the lot in question" on the ground that the heirs of Francisco Lauron, petitioners herein, through fraud and stealth, and without notice to him, were able to secure the decision of March 4, 1954 adjudicating the lot to them and that on the basis of said decision, they were able to oust him, his wife and children, from the said lot; and that inasmuch as the decision of March 4, 1954 and the writ of possession dated April 30, 1954 had already been set aside, the

heirs of Francisco Lauron were illegally possessing said lot, and that they had never been in possession of the lot, except when the Sheriff placed them in possession, in accordance with the writ of possession of April 30, 1954. This last petition of Espino was opposed by the heirs of Francisco Lauron, but the lower court evidently was not impressed by said opposition, and so issued the controversial order of April 19, 1956, subject of these certiorari proceedings, ordering the heirs of Francisco Lauron to return the possession of the lot to Espino. The heirs of Francisco Lauron moved for the reconsideration of this order and Espino opposed the motion for reconsideration. By order of June 13, 1956, respondent Judge Jarencio denied the motion for reconsideration.

After carefully considering the facts and circumstances above narrated, we are not convinced that respondent Judge gravely abused his discretion when he issued the order of April 19, 1956. In issuing said order, respondent Judge evidently believed that an injustice had been committed against Pacifico Espino in having him ejected from the lot in question, which he apparently possessed and occupied peacefully and adversely before his ejection, without giving him an opportunity to establish his right to continue possessing the land. As respondent Judge said in his order, all that he wanted to do by means of his order was "to restore the *status quo* of the parties existing at the time the writ of possession was issued on April 30, 1954" whereby Espino was ejected from the lot and petitioners herein were placed in possession. Furthermore, there is every reason to believe that Lot No. 2467-B of the Dueñas, Iloilo, Cadastre was a contested lot between the predecessors in interest of petitioners herein and those of Espino, and by the order of the trial court of April 22, 1955, it directed that the hearing of the case be set at an early date to determine the ownership of the lot as between the parties concerned. In other words, a sort of new trial was being given by respondent Judge so as to give each party equal opportunity to establish its claim of ownership to the lot, at the same time restoring Espino in the position where he was before, namely, in the peaceful possession of the land when he was ejected therefrom by the Sheriff.

With the dissolution of the writ of preliminary injunction already

issued, the petition for certiorari is hereby denied. No costs.

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

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