

PASTOR TANCHOCO, MACARIO TANCHOCO, AGRIPINA TANCHOCO, INOCENCIA TANCHOCO, LIBERATA TANCHOCO AND TRINIDAD TANCHOCO, PETITIONERS, VS. HON. FLORENDO P. AQUINO, AS JUDGE OF THE COUR...

G.R. No. L-30670. September 15, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari with preliminary injunction, seeking the annulment of the Orders dated June 25, 1968, July 31, 1968, March 14, 1969 and May 29, 1969 issued by Respondent Court of First Instance of Nueva Ecija, Branch I, in Civil Case No. 8077, entitled "Donato Lajom v. Jose P. Viola, et al".

The dispositive portion of the Order dated June 25, 1968 Rollo, p. 63) reads as follows:

"WHEREFORE, the undivided one-half of lot 314 described under T.C.T. No. 11682 is now declared to have been ceded and conveyed to the plaintiffs Vicenta T. Vda. de Lajom and Jose T. Lajom, and there-fore declared owners thereof. (The Register of Deeds for the Province of Nueva Eci-ja is hereby ordered to issue the title of said undivided one-half of lot 314 in the names of said plaintiffs Vicenta T. Vda. de Lajom, of legal age, widow, Filipino, and resident of 119 D. Arellano, Caloocan City, and Jose T. Lajom, of legal age, single, Filipino, and resident of 119 D. Arellano, Caloocan City, as an effect of the lis pendens annotated thereon on January 11, 1950). The defendant Rafael Viola and his supposed successors over the aforesaid property after the lis pendens had become operative on January 11, 1950 are hereby ordered to respect the rights and ownership of the afore-mentioned plaintiffs Vicenta T. Vda. de Lajom and Jose T. Lajom by virtue of the terms and conditions of this order.

SO ORDERED."

The Order of July 31, 1968 (Rollo, p. 68) states:

"Supplementary to the order of the Court of June 25, 1968, the Register of Deeds of Nueva Ecija is hereby ordered to cancel all annotations with respect to the undivided one-half (½) of Lot 314 described under Transfer Certificate of Title No. 11862 after the notice of lis pendens at the back of the said title was annota-ted on January 11, 1950 and to cancel the original and owner's duplicate certificate of titles of all whomsoever claim to have derived title from the defendant Rafael Vio-la over the afore-mentioned property after the said lis pendens became imperative on January 11, 1950.

SO ORDERED."

The Order of March 14, 1969 (Rollo, p. 139) reads, as follows:

"Considering the exhaustive pleadings filed by the movants as well as the plain-tiffs in support of the Motion for Reconsi-deration filed in connection with the Orders of this Court of June 25 and July 21, 1968, the Court believes and so finds that the movants not having been parties to the action at bar, they have no personality to

question the aforementioned orders sought to be reconsidered; and without further dwelling into the other legal issues raised by the movants the Motion for Reconsideration is hereby denied for lack of merit. This does not mean, however, that this Court is closing any avenue of legal remedy that might be available to the movants in another action.

SO ORDERED."

The order of May 29, 1969 (Rollo, p. 141) is quoted as follows:

"Submitted for resolution is a Motion for Execution with Writ of Possession.

The Court finds the said motion, dated May 22, 1969 to be well-founded and therefore grants the same.

Let a Writ of Execution with Writ of Possessions issue in favor of the plaintiffs in accordance with the order sought to be executed.

SO ORDERED."

The factual background of the case may be found in the decision of the Court in G.R. No. L-6457, entitled *Donato Lajom v. Jose Viola, et al.* promulgated on May 30, 1956, quoted in *Lajom v. Leuterio, et al.* (107 Phil. 651 [1960]), as follows:

"Maximo Viola died on September 3, 1933. Judicial proceedings of his testate estate were instituted in the Court of First Instance of Bulacan (Civil Case No. 4741) and closed on March 17, 1937. An agreement of partition and distribution (dated October 25, 1935) was executed by and between Jose P. Viola, Rafael Viola and Silvio Viola, legitimate children of Maximo Viola and Juana Toura, whereby the properties left by their father, Maximo Viola, were divided among them-selves. On March 17, 1939, Donato Lajom (plaintiff-appellee herein) filed in the Court of First Instance of Nueva Ecija, a complaint, amended on May 16, 1939, praying, among other things, that he be declared a natural child of Maximo Viola, impliedly recognized and acknowledged in accordance with the laws in force prior to the Civil Code, thereby being a co-heir of Jose P. Viola, Rafael Viola and Silvio Viola (defendants-appellants); that the agreement of partition and distribution executed in 1935 by these three legitimate children of Maximino Viola be declared null and void and after collation, payment of debts and accounting of fruits, a new partition be ordered adjudicating one-seventh of the estate left by Maximo Viola to Donato Lajom and two-seventh to each of the three appellants. The latter filed a demurrer to the amended complaint which was sustained by the Court of First Instance of Nueva Ecija in its order of July 31, 1939, holding that the allegations of the amended complaint called for the exercise of probate jurisdiction and that as the complaint showed that the will of the deceased Maximo Viola had already been probated in the Court of First Instance of Bulacan which had first taken cognizance of the settlement of his estate, the Court of First Instance of Nueva Ecija could not subsequently assume the same jurisdiction. Upon appeal to the Supreme Court by the plaintiff-appellee, the order sustaining the demurrer was reversed and the case was remanded to the Court of First Instance of Nueva Ecija for further proceeding.

"On December 21, 1942, the defendants-appellants accordingly filed an answer to the amended complaint containing specific demands and setting up the affirmative defenses that the appellants are the sole heirs of Maximo Viola; that corresponding judicial proceedings of his testate estate were duly instituted and terminated in the Court of First Instance of Bulacan, of which plaintiff-appellee was fully aware; that the action was filed by the appellee two years after the termination of said testate proceedings and almost six years after the death of Maximo Viola, without having previously asserted any right whatsoever to any part of said estate, and is therefore now barred from doing so; and that assuming the appellee to be an acknowledged natural child of Maximo Viola, his right of action had prescribed. After the trial, the Court of First Instance of Nueva Ecija rendered a decision in favor of the plaintiff, the dispositive part of which reads as follows:

" 'EN VISTA DE LAS CONSIDERACIONES ARRIBA EXPUESTAS, el Juzgado falla este asunto a favor del demandante y contra de los demandados, declarando al demandante, Donato Lajom, hijo natural, implícita y tácitamente, reconocido por su padre, el difunto Dr. Maximo Viola, de acuerdo con la Ley de Toro; se declara la partición y distribución hecha por los demandados' convenio de partición y adjudicación de los Bienes Dejados por el Difunto Dr. Maximo Viola, ilegal, nulo y de ningún valor; se ordena la colación de los bienes en cuestión, poniendo los mismos en manos de un administrador judicial; se ordena a todos y cada uno de los aquí demandados a presentar una liquidación de los frutos y productos provenientes de dichas propiedades asignadas a cada uno de ellos desde el Octubre 25, 1935, con el fin de una nueva distribución; se ordena a los demandados Jose P. Viola y Silvio Viola a someter una liquidación de los frutos y productos de las tres parcelas de terreno mencionadas en los párrafos 1 y 2 del Annex 'A' que han sido puestas bajo su administración en el Procedimiento Especial No. 4741 del Juzgado de Primera Instancia de Bulacan a partir del 3 del Septiembre de 1933; y finalmente, se ordena la partición y adjudicación a favor del demandante de una séptima (1/7) parte de dichas propiedades y productos; dos séptimas (2/7) partes a cada uno de los aquí demandados; cuando todas esas propiedades pertenecientes al finado Dr. Maximo Viola sean colados, todas las deudas pagadas y los frutos rendidos. Con costas.' "

Said decision of the Court of First Instance of Nueva Ecija was, on appeal, affirmed by this Court in the cited case, L-6457, May 30, 1956.

When the decision of the Court became final, the records were remanded to the lower court where Lajom filed a motion for the execution of the judgment, the collation of all properties of the late Dr. Maximo Viola and the redistribution of the estate as indicated in said judgment. Acting on the motion, respondent Court issued an order dated October 30, 1956, declaring, among others, that the decision sought to be executed annulled the partition previously entered into by the defendants in Civil Case No. 8077 and ordered the "collation of all the properties in question" placing the same in the hands of a judicial administrator. Accordingly, respondent Court ordered the defendants in possession of each and every one of the 47 parcels of land enumerated in the agreement of partition which was annulled, to deliver the same to the judicial administrator to be appointed by said court and to submit a liquidation of the fruits and products of the properties assign to each and everyone of them from October 25, 1935.

When Rafael Viola filed the report required in the Order, Lajom questioned the omission of 215 hectares of riceland allegedly donated by Maximo Viola to said Rafael Viola who objected to the inclusion of the aforementioned property. He was sustained by respondent Court on the ground that the property was not among the properties in question enumerated in the inventory of property attached to Lajom's original complaint in Civil Case No. 8077 and was not covered by the decision therein rendered and subsequently affirmed by the Court in L-6457. On certiorari the Court affirmed the decision of the respondent Court in L-13557 (107 Phil. 651 [1960]).

Pending the partition, adjudication and distribution of the estate in the proportion indicated in the decision in view of the fact that the accounting of the fruits covering a period of 30 years had not yet been completely terminated, aside from other pending matters, on April 6, 1964 Rafael Viola sold an undivided 1/2 portion of Lot No. 314, which portion is located on the western part of the property, in favor of petitioners herein, Pastor, Macario and Agripina Tanchoco to whom was issued TCT No. OCT-66683-Nueva Ecija for the sum of P50,000.00, annotated at the back of TCT No. 11682, under Entry No. 33432/T-11682 and again on January 5, 1965 sold a portion of 6/7 of 1/2 of the same land which is located on the eastern part of Lot No. 314 or parcel No. 2 of the property in favor of petitioners Inocencia, Liberata and Trinidad Tanchoco to whom was issued TCT No. NT-66684-Nueva Ecija for Lot 314-B-2-B for the sum of P42,000.00, also annotated at the back of TCT No. 11682 under Entry No. 34720/T-11682 (Rollo, pp. 4, 23, 31).

On February 27, 1967 Donato Lajom, one of the private respondents herein, filed a motion for contempt and to return Lot 314 to the estate of the late Dr. Maximo Viola (Rollo, p. 30) against the defendants in Civil Case No. 8077 and the Tanchocos, petitioners herein, in view of the sale without permission of respondent Court in spite of the *lis pendens* in his favor annotated on the back of TCT No. 11682 under Entry No. 19553/T-14707 dated January 11, 1950 and the decision rendered by respondent Court which became final after the same was affirmed by the Court on May 30, 1956. Lajom prayed for an order:

- (1) Citing defendants Rafael Viola, Pastor, Macario, Agripina, Inocencia, Liberata and Trinidad, all surnamed Tanchoco, and Deputy Register of Deeds Lauro P. Puno for contempt of court - for having unlawfully interfered with property under administration;
- (2) Declaring the sales executed by Rafael Viola in favor of the Tanchocos, dated April 6, 1964 and January 5, 1965 *il-legal* and null and void - for having been made without permission of the court;
- (3) Cancelling the new titles TCT No. NT-66682, TCT No. NT-66683 and TCT No. NT-66684 in the names of Rafael Viola and the Tanchocos, respectively; and, the false Entry No. 22189 on the back of TCT No. 11682;
- (4) Directing Pastor, Macario and Agripina, all surnamed Tanchoco, to submit an accounting of the fruits gathered by them on Lot 314-B-2-A to begin from April 6, 1964 until they shall have allowed the administrator to gather the fruits corresponding to the estate;
- (5) Directing Inocencia, Liberata and Trinidad, all surnamed Tanchoco, to submit an accounting of the fruits gathered by them on Lot 314-B-2-B to begin from January 5, 1965 until they shall have allowed the administrator to gather the fruits corresponding to the estate; and
- (6) Directing all the defendants Tanchocos to immediately deliver and surrender joint possession of Lots 314-B-2-A and 314-B-2-B to the administrator Maximino M. Lorenzo, and to permit and allow the said administrator to jointly participate in harvesting and gathering 1/2 of the crops of palay now standing thereon – otherwise, they should be incarcerated until they comply with the order.

After hearing the motion for contempt, respondent Court issued the order dated June 15, 1967 (Rollo, p. 37), the dispositive portion of which reads as follows:

"IN VIEW OF THE FOREGOING, let the annotations appearing in T.C.T. No. 11682 be carried to the two transfer certificates of titles, T.C.T. No. NT-66683 and T.C.T. No. NT-66684, particularly the *lis pendens* under Entry No. 19553-T-14707 at the back of T.C.T. No. 11682; and once accomplished, the portion of the Motion for Contempt of March 3, 1967 with respect to the aforementioned annotations will have been considered withdrawn. The Register of Deeds of Nueva Ecija is hereby ordered by this Court to make the aforementioned annotations on the back of T.C.T. Nos. NT-66683 and NT-66684 in accordance with the dispositive part and spirit of this order within a period of five (5) days from receipt hereof. The respondent Tanchocos who are in possession of the transfer certificates of title on which the said annotation should be made are likewise ordered to present to the Register of Deeds the corresponding titles within a period of fifteen (15) days from today the owner's duplicate copies of said titles for the corresponding entry of such annotations. With respect to the other issues raised by the plaintiff in his motion of March 3, 1967, he may now follow the course of action he believes proper and adequate in the premises."

On July 10, 1967, Donato Lajom (already dead) substituted by his heirs and successors-in-interest Vicenta T. Vda. de Lajom and Jose T. Lajom, and the Violas submitted to respondent Court for approval a compromise agreement (Rollo, pp. 49-55) wherein they amicably settled their dispute over the estate of the late Maximo Viola. Among the provisions of the agreement was a statement that the agreement notwithstanding, the above entitled case, that is Civil Case No. 8077, shall continue but only for the purpose of the recovery and bringing back to the estate of the undivided one-half of Lot No. 314 until all the issues raised in the aforementioned pending motion

for contempt shall have been completely resolved by final judgment and/or on such other matters the lower court may deem proper (Rollo, p. 52).

Respondent Court approved the compromise agreement on July 11, 1967 except paragraph 2 thereof, the agreement with respect to Lot No. 314 which had been subdivided into Lots No. 314-b-2-a and 314-b-2-b and covered by T.C.T. No. NT-66683 and NT-66684, respectively. Respondent Court withheld action thereon until it shall have finally resolved the motion still pending before it with respect to the said lots. This dispositive portion of the order of the Court, approving the compromise agreement states:

"All the properties described in paragraph on the compromise agreement are now declared to have been ceded and conveyed by the defendants in this case to Vicenta Tecson Vda. de Lajom and Jose T. Lajom. The Register of Deeds of Nueva Ecija is hereby ordered to effect the transfer of the titles of the properties aforementioned in accordance with the terms of the Compromise Agreement hereto attached excepting Lot No. 314 now Lots Nos. 314-b-2-a and 314-b-2-b, subject to the condition herein recited in paragraph 1 of this order."

Meantime, on August 21, 1967 petitioners as defendants in the contempt charge entered their special appearance with respondent Court "with respect to the return of Lot 314 to the Estate of the late Dr. Maximo Viola and more particularly to prayers (2), (3), (4), (5) and (6) of the motion for contempt dated February 27, 1967 for the sole and only purpose of raising the question of this court's lack of jurisdiction not only over the persons of the TANCHOCOS but also on the subject matter of the motion," asserting that they have not been summoned but merely notified of the motion for contempt by registered mail and that while it is true that they appeared in court in the contempt phase of the motion they did not appear in court on the other phase of the motion which is for the return of Lot 314 (Rollo, p. 39). An opposition to special appearance was filed by private respondent Jose Lajom as plaintiff in Civil Case No. 8077, praying for its dismissal on the ground that petitioners cannot split the single action nor split their appearance in the action for contempt on the basis of the number of reliefs prayed for, because the prayer for reliefs does not and cannot change or alter the singleness of the action, and that consequently, the special appearance entered allegedly for the sole and separate purpose of objecting to the jurisdiction of respondent court not only over the persons of the Tanchocos but also over the subject matter must be held as a general appearance. A voluntary general appearance waives notice (Rollo, p. 41).

A rejoinder to the opposition was filed by petitioners on October 17, 1967 (Rollo, p. 46).

On February 15, 1968 the Lajoms, private respondents herein, filed with respondent court a motion to approve paragraph 2 of the compromise agreement and to issue a writ of possession (Rollo, p. 56) specifically praying for an Order, among others (1) directing Rafael Viola, his purchasers, Pastor Tanchoco, et al., and all whomsoever derived title from him to return to the estate thru the administrator the undivided one-half of Lot 314 described under TCT No. 11682 and simultaneously upon issuance of such order; (2) approving paragraph 2 of the compromise agreement, dated July 10, 1967; and ceding and adjudicating to the plaintiffs Vicenta T. Vda. de Lajom and Jose T. Lajom the undivided one-half of Lot 314 described under TCT No. 11682, together with the crops of palay existing thereon; (3) directing the Register of Deeds for the province of Nueva Ecija to effect the transfer of title of the undivided one-half of Lot 314 described under TCT No. 11682 to and in favor of plaintiffs Vicenta T. Vda. de Lajom and Jose T. Lajom, and to cancel any and all titles or transactions affecting the undivided one-half of Lot 314 described under TCT No. 11682 made or done after the annotation of the lis pendens on January 11, 1950; and (4) issuing a writ of possession directing the Sheriff of Nueva Ecija and/or his duly authorized representative to place the plaintiff Vicenta T. Vda. de Lajom and Jose T. Lajom in possession of the undivided one-half of Lot 314 described under TCT No. 11682 and the crops of palay existing thereon, more particularly the western half thereof (to the extent of their one-half share) bordering the Provincial Board and Moreno property on the west, situated at San Isidro, Nueva Ecija, and ousting therefrom the defendant Rafael

Viola, his purchasers Pastor Tanchoco, et al. and all whomsoever derived title from him or any of them immediately upon issuance thereof.

Acting upon the motion respondent court issued the questioned order of June 25, 1968 followed by the Suppletory Order of July 31, 1968 and finally the order of March 14, 1969 denying petitioner's motion for reconsideration dated August 7, 1968 (Rollo, p. 72) and suppletory motion for reconsideration dated October 11, 1968 (Rollo, p. 78) both opposed by the Lajoms, private respondents herein (Rollo, p. 74 and 81) completed with a reply to the two oppositions (Rollo, p. 83), a rejoinder to reply (Rollo, p. 100) and a sub-rejoinder to the rejoinder (Rollo, p. 109).

The writ of execution and writ of possession were issued on May 29, 1969 (Rollo, p. 123) executing respondent court's orders of June 25, 1968 and July 31, 1968. It was returned to respondent court duly enforced on June 4, 1969 (Rollo, p. 180). Thus, this petition.

The petition was received and filed with the Court on July 7, 1969 (Rollo, p. 1). The writ of preliminary injunction, restraining the execution and implementation of respondent court's orders of June 25 and July 31, 1968 and the writ of possession of May 29, 1969 in Civil Case No. 8077, was issued on July 28, 1969 (Rollo, p. 160). The answer of private respondents Vicenta T. Vda. de Lajom and Jose T. Lajom was filed on August 8, 1969 (Rollo, p. 168).

The case was orally argued by both parties in the hearing of the case held on October 1, 1969 and both parties were required to submit simultaneously their respective memoranda in amplification of their oral arguments (Rollo, p. 233).

On the same date private respondents Vicenta T. Vda. de Lajom and Jose T. Lajom filed a motion to dismiss the petition (Rollo, p. 190) on the ground that Civil Case No. 474 (Rollo, p. 194) for quieting of title, cancellation of transfer certificate of title, partition and damages, etc. filed by petitioners on April 29, 1969 is pending before the Court of First Instance of Nueva Ecija, Branch V, involving identical parties, identical courses of action, that any judgment that may be rendered in the first action, regardless of which party is successful will necessarily amount to an adjudication of the second action (Rollo, p. 190).

The petitioners' memorandum was filed on October 16, 1969 (Rollo, p. 238); the memorandum for private respondents Vicenta T. Vda. de Lajom and Jose T. Lajom was filed on November 3, 1969 (Rollo, p. 271), three (3) days late since the Court granted private respondents a second extension of five (5) days from October 26 to file a memorandum, in its Resolution dated November 3, 1969 (Rollo, p. 273). Private respondents Rafael Viola failed to file his written memorandum in spite of the extension of fifteen (15) days granted by the Court within which to file said memorandum, which expired on October 31, 1969.

The Court resolved on December 9, 1969 to consider the case submitted for decision (Rollo, p. 277). It denied the motion of the counsel for petitioners to have the case set again for oral argument, in its Resolution dated November 17, 1977 (Rollo, p. 287).

On September 10, 1986 the case was transferred to the Second Division in a Resolution of the First Division of the Court (Rollo, p. 299). In its Resolution of May 18, 1987 the Court ordered the case to be calendared for deliberation. (Rollo, p. 300).

The lone issue to be resolved by the Court is the question of whether or not the petitioners were denied procedural due process that could nullify respondent court's orders of June 25, 1968, July 31, 1968, March 14, 1969 and May 29, 1969.

The answer is in the negative.

Several circumstances belie petitioners claim of having been denied procedural due process.

First, is the undisputed fact that when petitioners purchased on April 6, 1964 from Rafael Viola an undivided (1/2) portion of Lot 314 and then on January 5, 1965 a 6/7 portion of the other half of Lot 314 there was at the back of TCT No. 11682 covering Lot 314 an annotation of a notice of lis pendens in favor of Donato Lajom, under Entry No. 19553/T-14707 (Rollo, p. 23), as follows:

"Entry No. 19553/T-14707; Kind ? Lis pendens in favor of - Donato Lajom; Conditions - 1/2 of the properties described in this title is the object of a complaint filed in Civil Case No. 8077 of the C.F.I. of N.E.; Date of instrument – Dec. 16, 1949; Date of Inscription ? Jan. 11, 1950 at 2:00 p.m."

Petitioner Pastor Tanchoco who holds office as Asst. Provincial Fiscal of Nueva Ecija (Rollo, p. 30) could not have missed the import of such annotation. It was an announcement to the whole world that a particular real property is in litigation, serving as a warning that one who acquires an interest over said property does so at his own risk, or that he gambles on the result of the litigation over said property. Since petitioners herein bought the land in question with the knowledge of the existing encumbrance thereon, they cannot invoke the right of purchasers in good faith, they cannot likewise have acquired better rights than those of their predecessors in interest (*Constantino v. Espiritu*, 45 SCRA 557 [1972]).

Obviously, Rafael Viola sold to the Tanchocos an undivided 1/2 portion of Lot 314 and the 6/7 portion of the other half of the same lot in bad faith manifestly to defeat the judgment of respondent court in Civil Case No. 8077 affirmed by the Court on May 5, 1956. On October 30, 1956 respondent Court in implementation of said decision ordered the placing of the properties subject of litigation in the hands of a judicial administrator who was to submit an accounting of the fruits and products thereof after which a partition of said properties and the fruits thereof would be made (*Lajom v. Leuterio*, 107 Phil 651, 654). In December 1956 co-administrator Manuel Gallego, Jr. took over the administration of the properties of the estate, among them, Lot No. 314, appearing in his verified report of May 31, 1959 as Inventory Item No. 34 of Annex B, Table II of the report which is a list of properties under administration since 1956 (Rollo, p. 31). However, with-out the knowledge and consent of respondent court, while said administration of the properties and accounting of the fruits of the same properties were in progress, Rafael Viola made the sale to the petitioners. Afterwards, on December 6, 1966, Rafael Viola adjudicated to himself Lot 314-B-2 securing a title thereto in his name under TCT NO. NT-66682 (Rollo, p. 23). As the annotations at the back of TCT No. 11682 show, Lots 314-A and 314-B belong to a certain Paz Villaruz Viola by virtue of a sale dated October 9, 1937 and another sale dated March 15, 1939.

On the same date that TCT No. NT-66682 was obtained, it was cancelled by TCT NT-66683 in the name of petitioners Mario Tanchoco, Pastor Tanchoco and Agripina Tanchoco covering Lot 314-B-2-A (Rollo, p. 26), and TCT NT-66684 in the name of petitioners Inocencia Tanchoco, Liberata Tanchoco and Trinidad Tanchoco, covering Lot 314-B-2-B (Rollo, p. 28). It appears that on the same date it was annotated at the back of TCT No. 11682 that by virtue of the decision of the Court in G.R. No. L-6457, one-seventh (1/7) of one half (1/2) of Lot 314-B-2 was adjudicated to Donato Lajom, the original plaintiff of Civil Case No. 8077 (Rollo, p. 23). The notice of lis pendens was not carried over in the new titles notwithstanding the fact that said notice was subsisting as there was no order issued by respondent Court for its cancellation. It was only after the hearing of the motion for contempt filed by private respondents Vicenta T. Vda. de Lajom and Jose T. Lajom that the existing notice of lis pendens was annotated at the back of TCT NT-66683 and TCT NT-66684 by order of respondent Court dated June 15, 1967 (Rollo, p. 37).

The purpose of a notice of lis pendens is precisely to avoid such sales pending the execution of a court's judgment.

The doctrine of *lis pendens* is founded upon reason of public policy and necessity, the purpose of which is to keep the subject matter of the litigation within the power of the court until the judgment or decree shall have been entered; otherwise, by successive alienations pending the litigation, its judgment or decree shall be rendered abortive and impossible of execution. (*Laroza v. Guia*, 134 SCRA 341 [1985]). Purchasers *pendente lite* of the property subject of the litigation after the notice of *lis pendens* is inscribed in the Office of the Register of Deeds are bound by the judgment against their predecessor (*Correa v. Pascual*, 99 Phil. 696 [1956]). They will be held to have bought the land in bad faith since they are charged with notice of the existence of the litigation over the property in question (*Bancairan v. Diones*, 98 Phil. 122 [1955]). Furthermore, a conveyance of property, which is manifestly fraudulent, to defeat a judgment in favor of judgment creditors is null and void (*Nerona v. Intermediate Appellate Court*, 133 SCRA 837 [1985]). Such a situation appears to exist in this instant case.

Second, in the hearing of the contempt portion of the motion for contempt and to return lot 314 to the estate of the late Dr. Maximo Viola, petitioners were notified of the entire motion and as mentioned in the order of respondent Court dated June 15, 1967. Petitioners appeared as defendants and even manifested to respondent Court through counsel, that they would cause to be annotated at the back of TCT No. NT-66683 and TCT No. NT-66684 the existing annotation on the title from which the said two titles had been derived (Rollo, p. 37).

Third, the compromise agreement entered into by the protagonists in Civil Case No. 8077 covered all the properties belonging to the estate of the late Maximo Viola described in the inventory attached to private Respondent Donato Lajom's original complaint in Civil Case No. 8077, which properties were placed in the hands of a judicial administrator, including of course the undivided one-half of Lot 314, not only appearing in the verified report dated May 31, 1959 of the administrator Manuel Gallego, Jr. as Inventory Item No. 34 (Rollo, p. 31) but also in the inventory attached to the complaint as Item No. 14, Annex A (Rollo, p. 30). Lot 314 therefore is covered by the decision rendered in Civil Case No. 8077 subsequently affirmed by the Court in Case No. L-6457 and among those subject to be partitioned between plaintiff and defendants in said case. In approving the compromise agreement and later on paragraph 2 of the compromise agreement which pertain to Rafael Viola's conveyance and adjudication to private respondent Lajom of the undivided one-half of Lot 314 as part of the latter's share on the estate left by Dr. Maximo Viola, the effectivity of which the parties themselves stipulated at first to hold in abeyance until the lot has been returned to the administrator by order of respondent court, the latter was merely enforcing the aforementioned decision in Civil Case No. 8077 affirmed by this Court in case No. L-6457. Said decision has already become final. Any order directing what was not required in said decision would be in excess of its jurisdiction and therefore, null and void (*Lajom v. Leuterio and Viola*, 107 Phil. 651 [1960]).

As the transferees *pendente lite* of the property involved in the litigation stand exactly in the shoes of their predecessor in interest, Petitioners as such are bound by the proceedings in the case (*Fatalino v. Sanz*, 44 Phil. 691 [1923]). The Register is now asking petitioners to surrender their titles, and petitioners may not properly refuse, because they received their titles from the Register upon their undertaking to respect the outcome of the litigation, the title being expressly subject thereto, by the annotation of *lis pendens* (*Selph V. Vda. de Aguilar*, 107 Phil. 443 [1960]).

PREMISES CONSIDERED, this Petition is hereby DISMISSED for lack of merit and the writ of preliminary injunction issued by the Court on July 28, 1969 restraining the execution and implementation of respondent Court's orders of June 25 and July 3, 1968 and the writ of possession of May 29, 1969 in Civil Case No. 8077 are hereby lifted permanently.

SO ORDERED.

Teehankee, C.J., Narvasa, and Cruz, JJ., concur.

Gancayco, J., on leave.

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