

WENCESLAO JUNIO, PETITIONER-APPELLANT, VS. FELICIANO DE LOS SANTOS AND REGISTER OF DEEDS OF PANGASINAN, RESPONDENTS-APPELLEES.

G.R. No. L-35744. September 28, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

The question involved being purely one of law, the then Court of Appeals certified to us petitioner's appeal from the Decision of the former Court of First Instance of Pangasinan An Case No. 16362, G.L.R.O. Record No. 52512, dismissing his Petition for the cancellation of the Adverse Claim annotated on his transfer certificate of title. The case is being decided under the provisions of the former Land Registration Act (Act No. 496).

Petitioner-appellant, Wenceslao Junio, is the registered owner of a parcel of land situated at Bayambang, Pangasinan, with an area of 7.65 hectares, more or less, covered by TCT No. 1004 of the Registry of Deeds of Pangasinan.

By virtue of a Deed of Absolute Sale allegedly executed by petitioner over the said parcel of land in favor of respondent Feliciano de los Santos and his co-vendees, Guillermo de la Cruz and Jose Junio, an Affidavit of Adverse Claim was executed by respondent, Feliciano de los Santos, a claiming a one-third undivided portion of petitioner's property, which claim was annotated on petitioner's title.

Petitioner denies having sold any portion of his property to private respondent, hence, his Petition for the cancellation of said adverse claim. Petitioner disputes the appropriateness of the annotation alleging that under Section 110 of the Land Registration Act (Act No. 496), such inscription may be resorted to only when there is no other means of registering an interest or right; that Section 57 of the same statute provides for the registration of a documented sale involving a titled property; and that the Register of Deeds acted negligently in registering the document without the formal legal requisities.

Opposing, respondent de los Santos countered that he had tried to avail himself of Section 57 by requesting petitioner to surrender his owner's duplicate certificate of title but since the latter refused to do so he was compelled to present an adverse claim pursuant to Section 110 of the Land Registration Act.

The case was submitted for decision, without the presentation of evidence, and based on the pleadings, the lower Court denied the petition for cancellation for lack of merit and because "petitioner has his own remedy but not in this summary proceedings."

The provision on adverse claim reads in part:

"Sec. 110. Whoever claims any right or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Act for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under acquired, and a reference to the volume and page of the certificate of title of the registered owner, and a

description of the land in which the right or interest is claimed. The statement shall be signed and sworn to, and shall state the adverse claimant's residence and designate a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim, and the court, upon a petition of any party in interest, shall grant a speedy hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. If the claim is adjudged to be invalid, the registration shall be cancelled. If in any case the court after notice and hearing shall find that a claim thus registered was frivolous or vexatious, it may tax the adverse claimant double or treble costs in its discretion.

"x x x " (Italics ours)

The "other provision for registering" referred to above is, indeed, provided for in Section 57, thus:

"Sec. 57, An owner desiring to convey in fee his registered land or any portion thereof shall execute a deed of conveyance, which the grantor or grantee may present to the register of deeds in the province where the land lies. The grantor's duplicate certificate shall be produced and presented at the same time. The register of deeds shall thereupon, in accordance with the rules and instructions of the court, make out in the registration book a new certificate of title to the grantee, and shall prepare and deliver to him an owner's duplicate certificate. The register of deeds shall note upon the original and duplicate certificates the date of transfer, the volume and page of the registration book where the new certificate is registered, and a reference by number to the last prior certificate. The grantor's duplicate certificate shall be surrendered, and the word 'canceled' stamped upon it. The original certificate shall also be stamped 'canceled'. The deed of conveyance shall be filed and indorsed with the number and place of registration of the certificate of title of the land conveyed." (Italics supplied).

However, considering that petitioner had refused to surrender the title, private respondent could not avail of Section 57. Hence, the latter correctly resorted to the annotation of an adverse claim. Where the vendor fails to deliver to the vendee the duplicate certificate of title, the vendee should file immediately with the Register of Deeds an adverse claim under Section 110 of Act No. 496, as amended.[1]

Petitioner, however, calls attention to the case of Register of Deeds of Quezon City vs. Nicandro[2], which held that when a claim is based on a perfected contract of sale executed in their favor by the lawful owner of the land, the remedy provided in Section 110 would be ineffective considering that the Land Registration Act specifically provides the procedure for registration in Section 57 thereof. The factual milieu in that case, however, is completely different, for, therein there was no question about the existence of a perfected contract of sale, unlike in the case at bar, where the sale between the parties is contested. Moreover, as already adverted to, private respondent could not register the document of sale under Section 57 because of petitioner's refusal to surrender the duplicate certificate of title.

But petitioner additionally submits that because of such refusal, it is Section 111 of the same Act No. 496, which provides the proper remedy, and we quote:

"Sec. 111. In every case where the clerk or any register of deeds is requested to enter a new certificate in pursuance of an instrument purporting to be executed by the registered owner, or by reason of any instrument or proceedings which divests the title of the registered owner against his consent, if the outstanding owner's duplicate certificate is not presented for cancellation when such request is made, the clerk or register of deeds shall not enter a new certificate, but the person claiming to be entitled thereto may apply by petition to the court. The court, after hearing, may order the registered owner or any person withholding the duplicate to surrender the same, and direct the entry of a new certificate upon such surrender.

"If in any case the person withholding the duplicate certificate is not amenable to the process of the court, or if for any reason the outstanding owner's duplicate certificate cannot be delivered up, the court may by decree annul the same and order a new certificate of title to be entered. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate.

"If in any case an outstanding mortgagee's or lessee's duplicate certificate is not produced and surrendered when the mortgage is discharged or extinguished or the lease is terminated, like proceedings may be had to obtain registration as in the case of the non-production of an owner's duplicate."

We find that contention again bereft of merit as said Section 111 can be availed of only if controversial issues are not involved.[3] In this case, the genuineness and due execution of the sale between the parties is in controversy.

Although the grounds relied upon by petitioner for cancellation of the adverse claim were unmeritorious, it behooved the lower Court to have conducted a speedy hearing upon the question of validity of the adverse claim pursuant to the second paragraph of Section 110 of the Land Registration Act, reading:

"The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and designate a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim, and the court, upon a petition of any party in interest, shall grant a speedy hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. If the claim is adjudged to be invalid, the registration shall be cancelled. If in any case the court after notice and hearing shall find that a claim thus registered was frivolous or vexatious, it may tax the adverse claimant double or treble costs in its discretion." (Italics ours)

In fact, the lower Court, instead of confining itself to the propriety of the registration of the adverse claim should already have decided the controversy between the parties on the merits thereof. Doctrinal jurisprudence holds that the Court of First Instance (now the Regional Trial Court), as a Land Registration Court, can hear cases otherwise litigable only in ordinary civil actions, since the Courts of First Instance are at the same time, Courts of general jurisdiction and could entertain and dispose of the validity or invalidity of respondent's adverse claim, with a view to determining whether petitioner is entitled or not to the relief that he seeks.[4] That doctrine is based on expediency. In fact, petitioner has also prayed in his Brief that the case be returned to the lower Court for further proceedings. Note should also be taken of the fact that an adverse claim may be cancelled only after it is adjudged invalid or unmeritorious by the Court acting either as a land registration Court or a Court of general jurisdiction.[5] The two other co-vendees, however, should be impleaded as parties so that the entire controversy as to ownership may be threshed out in a single action to prevent multiplicity of suits.

WHEREFORE, this case is hereby ordered remanded to the Regional Trial Court corresponding to the former Court of First Instance of Pangasinan for hearing and for passing upon the controversy on the merits between petitioner, as the registered owner, and private respondent, who had filed the adverse claim, impleading for that purpose the alleged co-vendees, Guillermo de la Cruz and Jose Junio.

Costs against petitioner.

SO ORDERED.

Teehankee (Chairman), Plana, Relova, Gutierrez, Jr., and De la Fuente, JJ., concur.

[1] Roxas vs. Dinglasan, 28 SCRA 430 (1969); Jovellanos Dimalanta, 105 Phil. 1250 (1959).

[2] 1 SCRA 1335 (1961).

[3] Cano vs. Mirasol, et al., 7 SCRA 493 (1963); Mina vs. Valdez, 32 SCRA 435 (1970).

[4] Luna vs. Santos, 102 Phil. 588 (1957); Franco vs. Monte de Piedad, 7 SCRA 660 (1963); Almiranez vs. Devera, 13 SCRA 343 (1965).

[5] Ty Sin Tei vs. Lee Dy Piao, 103 Phil. 858 (1958); Santos vs. Ganayo, 116 SCRA 431 (1982).

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