

BENITO YLARDE, ET AL., PETITIONERS, VS. CRISANTO LICHAUCO, ET AL., AND THE HON. AMADO S. SANTIAGO, RESPONDENTS.*G.R. No. L-22115. December 29, 1971*

Ponente: ZALDIVAR, J.

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Petition for certiorari, prohibition and mandamus, praying substantially, that the orders of the Court of First Instance of Pangasinan, dated August 5 and 23, 1963, denying petitioners' motion to proceed with the hearing on the merits in Land Case No. 1, Record No. 1 of said court be set aside, that the private respondents be prohibited "from applying or moving for the issuance of a new decree and pursuant thereto the issuance of Transfer Certificate of Title based on the Llobrera Plan", and that the respondent Judge and the private respondents be ordered to proceed with the hearing of the case on the merits.[1]

In Land Case No. 1, G.L.R.O. Record No. 1 in the Court of First Instance of Pangasinan[2] herein petition-ers,[3] who claimed to be the substituted parties and heirs of the original oppositors in said case, filed a petition, dated January 14, 1961, praying, among other things, that they be allowed, with police protection, to locate, measure and survey their individual claims with-in the closures of the Hacienda "El Porvenir", and that any excess area found in the resurvey of the hacienda be surrendered to them[4]. Opposition thereto was filed by herein respondents Amparo Nable Jose and Asuncion Nable Jose[5] and by the Director of Lands[6]. The court a quo, acting on the petition and the opposition, issued an order, order dated February 15, 1961, denying the petition.

Herein petitioners then filed a motion, dated May 15, 1961, praying that the court order the surveyor Segundo Llobrera to appear in person with the relocation survey[7]. The court issued the order directing the surveyor to submit the relocation plan (Rel-110) within 60 days from receipt thereof[8].

The relocation plan[9] and the final report covering the survey[10] having been submitted, herein petitioners filed their "opposition to the consideration of the relo-cation survey plan Rel-110 and objections to the Llobrera Report"[11] on the grounds that the Llobrera survey plan was made with intentional departures from the Rocafull Plan, and was, consequently, in violation of the order of the Court of Land Registration of November 12, 1912, and that the separate and adverse claims of the oppositors were not plotted on the plan.

Judge Amado S. Santiago, who took cognizance of the case after Judge Pabalan had inhibited himself, ordered the publication of the hearing of the case in order to apprise all persons who might be affected by the considera-tion and approval of the relocation plan. Before the scheduled hearing, herein petitioners filed with the court the names of the individual claimants, together with the location, measurements and boundaries of their claims, allegedly within the closures or the estate covered by the Llobrera Plan. Some of these claims appear to be supported by titulo de compra, registered under the Spanish Mortgage Law[12].

On 23 January, 1962, the counsels for the applicants filed their opposition to the various motions of opposi-tors[13] on the grounds that the latter's prayer to enter the hacienda for the purpose of locating and surveying their claims had already been denied, that no new relo-cation survey was allowable, and that the only

issue before the court was whether the land delimited in the Rocafull Plan is the same land delimited in the Llobrera Plan.

After the hearing for the consideration of the Llobrera Plan, and the simultaneous filing by the parties of their memoranda, wherein petitioners prayed for the disapproval, while respondents for the approval, of the Llobrera Plan, herein respondent Judge Amado S. Santiago issued an order, dated March 12, 1963, "finding the relocation survey plan, Rel-110 (Exh. A) prepared by Segundo Llobrera, District Land Surveyor of Pangasinan, to be substantially in accordance with the decision of the Supreme Court of April 11, 1957 (Exh. O), and finding no sound reason and valid ground to disapprove said relocation plan, the Court hereby approves the same." [14]

Upon receipt of said order, herein petitioners filed a "Motion to Proceed with the Hearing on the Merits", dated March 20, 1963 [15], alleging that the approval of the Llobrera Relocation Survey Plan, Rel-110, did not necessarily adjudicate or vest upon the applicants the title to the land or bring to an end the litigation; that the applicants had still "to substantiate and prove their title to the estate"; that the oppositors, Benito Ylarde, et al., be permitted to offer evidence upon their original case or in the instant proceedings"; and that the applicants are without or have no subsisting certificate of title to any portion of the lands covered by the survey plan because OCT No. 7 based on the Rocafull Plan had been cancelled and all subsequent titles issued in favor of applicants had been cancelled (Crisanto Lichauco, vs. Director of Lands, et al., 70 Phil. 69).

On April 4, 1963, the court a quo issued an order setting the case for hearing on the merits, to which order applicants filed their opposition in the nature of a motion for reconsideration on the ground that the matter of applying or moving for the issuance of certificates of title based on the Llobrera relocation survey depended on the applicants and not on the oppositors [16], and that the hearing on the merits prayed for by the oppositors, in order that they may present evidence in support of their claims, would serve no useful purpose inasmuch as said claims had long been foreclosed by Decree of Registration No. 1178 in this same registration case. [17] The trial court directed the oppositors (herein petitioners) to file a memorandum on whether to proceed or not with the hearing on the merits, which the oppositors did [18]. The applicants (now respondents), likewise, filed their memorandum. [19] The trial court, passing on the memoranda of the parties, issued, on August 5, 1963, an order reconsidering the order of April 4, 1963 which set the case for hearing. [20] This order of August 5, 1963 had the effect of denying the motion to proceed with the hearing on the merits. Herein petitioners then filed a motion ex-parte -- in effect a motion to reconsider the order of August 5, 1963 -- praying that the dates of hearing be reset, which motion the court denied in its order dated August 23, 1963. [21]

It is because of these orders of August 5, 1963 and of August 23, 1963, that the oppositors filed the instant petition for certiorari, prohibition and mandamus.

The principal issue in the instant case is whether or not the lower court erred in issuing the orders dated August 5, 1963 and August 23, 1963, which denied the motion of petitioners to proceed with the hearing on the merits in the original registration case (Land Case No. 1, G.L.R.O. Record No. 1) that would require the applicants (herein private respondents) to prove their title to the land subject of the registration proceedings and in order that the oppositors (herein petitioners) may present their evidence to support their claims on portions of the land included in the Llobrera plan.

In resolving this issue it is necessary to consider the pertinent facts as found in the decisions of this Court on previous cases regarding Land Case No. 1, G.L.R.O. Record No. 1, originally of the Court of Land Registration, and later of the Court of First Instance of Pangasinan, to wit: Jose, et al. vs. Hon R. Baltazar, et al., 101 Phil., 36; Lichauco, et al. vs. Director of Lands, 70 Phil., 69; Lichauco, et al. vs. Herederos de Cayetano Corpus, et al., 60 Phil., 211; Lichauco, et al. v. Lim, et al., 6 Phil., 271. The pertinent facts are the following:

On January 20, 1903, Crisanto Lichauco, Salud Nable Jose, Amparo Nable Jose and Asuncion Nable Jose filed in the Court of Land Registration an application for the registration of the lands comprised in the hacienda "El Porvenir", situated in the municipalities of Tayug, Natividad, San Quintin, and Santa Maria, province of Pangasinan. Oppositions were filed by some 150 individuals and by the Attorney General on behalf of the Insular Government. After hearing, a decision was rendered by the land registration court on May 1, 1905, which was appealed to, and confirmed by, the Supreme Court in its decision of May 5, 1906, granting the adjudication and registration of the hacienda "El Porvenir" in favor of Crisanto Lichauco and the three sisters Salud, Amparo and Asuncion Nable Jose, in the proportion of a pro-indiviso one-half interest for the first and the remaining pro-indiviso half for the last three. After the Supreme Court promulgated its decision, the corresponding decree of registration No. 1178 was issued, and in accordance with this decree, Original Certificate of Title No. 7 of the land records of Pangasinan was issued in favor of Crisanto Lichauco and the sisters Salud, Amparo, and Asuncion Nable Jose in the proportion above mentioned.

Both the decree of registration No. 1178 and Original Certificate of Title No. 7 were based on a plan prepared by the "Ingeniero de Montes" Mr. Aurelio Diaz Rocafull in February, 1886,

On October 18, 1912, the then Director of Lands, C. H. Sleeper, petitioned the Court of Land Registration that, as it was impossible to properly locate the proper-ties covered by OCT No. 7, from the tie lines, and because the descriptions and surveys were of doubtful accuracy in many instances, new tie lines surveys and boundary surveys be executed, and for that purpose the registered owners be required to point out to the surveyor on the ground the actual boundaries of their lands. The Court of Land Registration promulgated an order, dated November 12, 1912 granting the petition, in this wise:

"SE ORDENA.

(A) Que todos y cada uno de los solicitantes arriba nombrados indiquen al agrimensor o agrimensores encargados de dicho trabajo en la fecha y hora que estos designaran, los limites correctos de las propiedades ocupados por los mismos y que se describen en los Certificados de Titulo cuyos numeros se consignan a renglon seguido de sus nombres respectivos en el encabezamiento de la presente orden."

The registered owners of the hacienda "El Porvenir" filed a motion on September 9, 1918 for the amendment of the order dated November 12, 1912 such that it be allowed that the new survey of the land covered by OCT No. 7 be made by any authorized private surveyor at the expense of the owners. The motion was granted, and the owners caused a new survey of the hacienda by private surveyor Zoilo Garcia, who prepared plan Psu-17590 and its corresponding technical description. The plan Psu-17590 having been amended as required by the General Land Registration Office, the court, by order of March 1, 1923 approved the new plan, cancelled all certificates previously issued, and ordered the Register of Deeds of Pangasinan to issue a new certificate of title to the title holders, Crisanto Lichauco and the Nable Jose sisters. Transfer Certificate of Title No. 1776 was thereupon issued.

A partition agreement having been entered into between the title holders, TCT No. 1776 was cancelled, and two new titles, to wit, TCT No. 1788 was issued in the names of Amparo Nable Jose and Asuncion Nable Jose and TCT No. 1789 in the name of the testamentary estate of Crisanto Lichauco. (Salud Nable Jose died and all her rights, interests and participation in the hacienda were inherited by her two sisters; and Crisanto Lichauco also died and his rights, interests and participation in the hacienda went to his estate). The last title, TCT No. 1789, was again cancelled and superseded by TCT No. 4109 in the name of the heirs of Crisanto Lichauco.

Upon protest by interested parties on the ground that there had been no publication and due notice of the motion asking for the approval of the new plan (Garcia plan), the land registration court subsequently set aside its

previous order of approval, and on appeal such action was upheld by this Court.[22]

The motion to approve the Garcia Plan having been renewed in the lower court, the Government and private oppositors objected thereto upon the ground that the Garcia Plan as amended included lands of the public domain covered by free patent applications, that the petitioners were bound by the Rocafull Plan and its technical description which the Garcia Plan did not follow, and that the petition was an attempt to reopen the decree issued on May 1, 1905 which the court had no jurisdiction to do. On March 14, 1938, the court rejected the opposition, approved the Garcia Plan, ordered the Register of Deeds of Pangasinan to cancel OCT No. 7 and to issue in lieu thereof two transfer certificates of title in accordance with the amended plan and description. On appeal, this Court reversed the order of the inferior court.[23] The records of this case were destroyed as a result of the battles for liberation, but were subsequently reconstituted. A petition for clarification having been filed by the counsel for the registered owners, this Court resolved on March 10, 1952 that there was still the need for carrying out the order of November 12, 1912 of the Court of Land Registration.

The records having been remanded, the lower court issued on February 16, 1953 an order commanding the Director of Lands to resurvey the land in accordance with the Rocafull Plan.

The Director of Lands commissioned surveyor Zacarias Gatchalian to carry out the order. The surveyor submitted his plan, but inasmuch as this plan was shown to be similar to the Garcia Plan, the lower court disapproved it, and again ordered the Director of Lands to make a relocation survey making as a basis the Rocafull Plan. The registered owners thereupon petitioned this Court for a writ of certiorari and/or mandamus to order the lower court to allow petitioners to present evidence on the Gatchalian plan or give due course to their appeal. In its decision, this Court declared that "the only survey authorized by the final resolution of March 10, 1952 was a relocation survey, one that must retrace the footsteps of surveyor Rocafull as closely as possible, and should not depart therefrom except where unavoidable in order to correct errors of closure or of computation," and denied the petition for certiorari, reserving, however, to the petitioners the right to show, at the proper time, that the Gatchalian survey constituted a more accurate relocation survey than the one ordered by the lower court.[24]

Pursuant to the order of the lower court, a relocation survey was executed by surveyor Segundo Llobrera of the Bureau of Lands, whose plan (Rel-110) was approved by respondent Judge Amado Santiago on March 12, 1963. Herein petitioners did not appeal from the order of respondent Judge approving the Llobrera plan. After the approval by Judge Santiago of the Llobrera plan the oppositors in the court below (petitioners herein) filed, on March 20, 1963, a motion to proceed with the hearing of the registration case on the merits. The orders of the lower court, of August 5, 1963 and August 23, 1963, denying this motion are now questioned in the instant petition.

Upon consideration of the antecedent facts, We find that the lower court did not commit any error, nor did it abuse its discretion, when it denied the motion of petitioners to proceed with the hearing on the merits in order that they might present evidence of their claims to certain portions of land within the closures of the estate covered by the Llobrera Plan of the Hacienda El Porvenir. Consideration must be made of the fact that:

First, the Hacienda "El Porvenir" is covered by the Decree of Registration No. 1178 dated May 1, 1905.[25] This decree had become absolute and incontrovertible for all the purposes of the law. This decree binds the land, quiets title thereto, is conclusive upon all persons, and cannot be reopened or reviewed after the lapse of one year after entry of the decree.[26] To allow the presentation of evidence tending to prove that the registered owners of the hacienda are not the owners of certain portions of land included therein would render the legal indefeasibility and conclusiveness of the decree of registration a meaningless verbiage and would be tantamount to a reopening of the decree of registration long closed and settled. This Court had held that

“ . . . when a decree of registration is once made under the Torrens system and the time has elapsed within which it may be contested, as in this case, the same becomes perfect, conclusive, and irre-vocable (Reyes, et al. vs. Judge Birbon, et al., 50 Phil. 591) and may no longer be reopened.”[27]

Second, petitioners herein claim that they "are the heirs and substituted parties or the continuation of the legal personalities of the original private oppositors, in Land Registration Case No. 1 (GLRO) LRC No. 1." [28] Since the claims and rights of the original oppositors had been foreclosed by the decree of registration, it follows that the present oppositors' pretended rights have also been barred.

The motion of herein petitioners for hearing on the merits is based on their erroneous conception of the nature of the Llobrera survey and the proceedings in the lower court. The Llobrera survey was not really a new survey but only a relocation survey that should follow the old corners used in the former survey in order to approach the same area and configuration. It should be noted that in the case of Jose, et al. vs. Hon. R. Bal-tazar, et al., 101 Phil. 36, 43, this Court stated:

"The result flowing from these pronouncements is that the only survey author-ized by our final resolution of March 10, 1952 is a relocation survey, one that must retrace the footsteps of surveyor Rocafull as closely as possible, and should not depart therefrom except when unavoidable in order to correct errors of closure of computation."

The respondent Judge, in his order of March 12, 1963 approving the Llobrera Plan, declared that the re-location survey embodied in the Llobrera Plan was in accordance with the decision of this Court in the above-mentioned case of Jose, et al. vs. Hon. R. Baltazar, et al., supra. In other words, the Llobrera Plan was more or less a reproduction of the Rocafull Plan.

The proceeding was not a new registration proceed-ing which would require the applicants to prove their ownership of the land. The land was already covered by a final and conclusive decree of registration based on the Rocafull plan, and, as We have adverted to, the Llobrera plan was more or less a reproduction or the Rocafull plan. As has been said, that decree binds the land and quiets title thereto, and the question of owner-ship of the land cannot be relitigated again in the same registration proceeding.

The allegation of the petitioners that the private respondents no longer have any certificate of title covering the land in the Hacienda "El Porvenir" is not correct. The OCT No. 7 based on the decree of registra-tion No. 1178 has remained valid and effective. This Court has declared null and void all certificates of title that were intended to supplant OCT No. 7, because they were based on erroneous or invalid resurvey plans.[29] It follows that when the certificates of title which sup-planted OCT No. 7 were declared null and void, the basic title -- OCT No. 7 -- remained valid and it served as the basis of the title of the private respondents over the land comprised within the Hacienda "El Porvenir", as shown in the Llobrera plan which was approved by the lower court.

During the pendency of this case before this Court, petitioners filed a motion praying that a writ of preli-minary injunction issue to restrain the Court of First Instance of Pangasinan, Tayug and Urdaneta Branch, from entertaining the petition of the heirs of Crisanto Lichauco for the issuance of a new owner's duplicate of TCT No. 11089 upon the ground that said duplicate had been lost, and also from entertaining the petition of Amanda de la Cruz for the approval of the subdivision plan PSU-93864 and the issuance of a new certificate of title covering Lot No. 4-B-8, a part of the land covered by TCT No. 11089.[30] Likewise, petitioners filed an omnibus petition for mandamus and contempt of court to compel the Land Registration Commission and the Register of Deeds of Pangasinan to cancel TCT No. 11089 issued in favor of the heirs of Crisanto Lichauco, which was based on TCT No. 4109 that was declared null and void by this Court on June 29, 1934; and to cite for contempt of Court Hon. Amado S. Santiago, the Hon. S. del Rosario, the Commissioner of the Land Registration Commission, the

respondent heirs of Crisanto Lichauco and their at-torneys of record, for allegedly having conspired in securing the issuance of the decree of registration No. 105369 and OCT No. 18489, on September 30, 1965, in favor of the heirs of Crisanto Lichauco on the land covered by the survey plan, Rel-110, subject matter of the present special civil action before this Court.[31]

In a resolution of September 16, 1969, this Court resolved to consider the matters, raised in the motion for preliminary injunction and the omnibus petition, when this case is taken up on the merits.

The basic reason of petitioners in filing the motion for preliminary injunction and the omnibus petition for mandamus and contempt of court is their contention that the matter regarding the title of the private respondents over the land covered by the Llobrera plan was not yet definite, because there was yet pending for resolution by this Court the question of whether or not a hearing on the merits should be held to prove the rights of the private respondents as well as of the petitioners over the land covered by the Llobrera plan. In other words, the stand of the petitioners is that while this case is pending, the private respondents herein should not make any move to secure the issuance or any certificate of title over the land, or a portion of it, covered by the Llobrera plan. In view, however, of Our ruling in this decision that the lower court had correctly denied the motion of petitioners for hearing on the merits, We do not consider it necessary any more to rule the questions brought about by the injunction and the omnibus mandamus and for contempt of court.

IN VIEW OF THE FOREGOING, the instant petition is dismissed, and the writs prayed for are denied, with costs against the petitioners.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, Makalintal, Ruiz Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] Words in quotation marks are as copied from the prayer of the petition, p. 69 of the Record.

[2] Entitled "Crisanto Lichauco, et al., applicants, vs. Director of Lands, et al., Oppositors."

[3] The private oppositors in Land Case No, 1, G.L.R.O. Record No. 1 are enumerated in Annex "Y" to the Petition (Record, pp. 198-243) in the following order: Benito Ylarde, Bruno Joaquin, Maximiano P. Alias, Candida Tullao, Cornelia Rimas, Severina Binoya, Bonifacio B. Perez, Mauro Goluya, Damian Nasuli, Valentina Pioquinto, Florencio Lazo, Leon Serrano, Martin Sanchez, Jose Aquino, Flaviano Flores, Magdalena Salcedo, Lazaro Severino, Bruno Ylarde, Petronila de Vera, Hermenegildo Ebreo Dionisio Almuete, Fiorentino Aquino, Florencio Lazo, Juan Boncato, Dionisio Costales, Luciano Aquino, Primitiva Fariñas, Severino Tejada, Benito Vidal, Pedro Tejada, Juan Retonda, Valentin Arquiza, Dominador Tejada, Vicente Juego, Antonio Estioco, Maria Vidal, Tomas Villaruz, Cristina Ylarde, Beatriz Urbano, Pedro Villanueva, Rafael Ebreo, Dionisio Caloza, Sinfroniana Dacanay Bacalso, Hipolita Agbunag, Silvina Munar, Fernanda Malinit, Venancio Salcedo, Juan Boncato, Nemesio Ylarde, Esperidion Ebreo, Catalino Cacayan, Damian Nasuri, Juan Boncato, Bonifacio Perez, and Quirino Cejalvo.

[4] Annex "B" to Petition, Record, pp. 76-82.

[5] Annex "E" to Petition, Record, pp. 87-88.

[6] Annex "F" to Petition, Record, pp. 89-91.

[7] Annex "J" to Petition, Record, pp. 111-116.

- [8] Annexes "K" and "M" to Petition, Record, pp. 117-118; 121.
- [9] Annex "N" to Petition, Record, 122
- [10] Annex "O" to Petition, Record, 123-150.
- [11] Annexes "P" and "P-1" to Petition, Record, pp. 151-172.
- [12] Annex "Y" to Petition, Record, pp. 198-243.
- [13] Annex "ZB" to Petition, Record, pp. 271-285.
- [14] Annex Record, pp. 333-358. (See Jose, et al., vs. Hon. R. Baltazar, et al., 101 Phil. 36.
- [15] Annex "ZG", pp. 359-363, Record.
- [16] Annex "ZH", Record, pp. 364-378.
- [17] Annex "ZI", Record, pp. 379-383.
- [18] Annex "ZJ", Record, pp. 384-420.
- [19] Annex "ZK" and "ZL", Record, pp. 421-449.
- [20] Annex "ZM", Record, pp. 450-457.
- [21] Page 60, Record.
- [22] Lichauco vs. Heirs of Corpus, 60 Phil. 211; Jose, et al. vs. Hon. F. Baltazar, et al., 101 Phil. 36, 38-39.
- [23] Lichauco, et al. vs. Director of Lands, 70 Phil. 69; Jose, et al., vs. Hon. R. Baltazar, 101 Phil. 36, 39.
- [24] Jose, et al. vs. Hon. R. Baltazar, et al., 101, Phil. 36, 43.
- [25] Record, pp. 512-514.
- [26] Sec. 38, Act. No. 496.
- [27] Lichauco, et al. v. The Director of Lands, et al., 70 Phil., 69, 82
- [28] Quoted from Petition, Record, p. 1.
- [29] Lichauco, et al. vs. Herederos de Corpus, 60 Phil. 212; Lichauco, et al. vs. Director of Lands, et al. 70 Phil. 69.
- [30] Page 621, Record.
- [31] Page 633, Record.

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