

**BISHOP OF LEGASPI, PETITIONER, VS. HON. MANUEL CALLEJA,
JUDGE OF THE COURT OF FIRST INSTANCE OF SORSOGON,
CONCEPCION H. LUNA AND IGNACIO A. LUNA, RESPONDENTS.**

G.R. No. L-14134. May 25, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Petitioner herein, the Bishop of Legaspi, seeks a writ of mandamus to enjoin respondent, Hon. Manuel Calleja, as Judge of First Instance of Sorsogon, to issue a writ of possession in favor of said petitioner and against the other respondents, Concepcion H. Luna and Ignacio A. Luna.

It appears that in 1947, Rev. Father Martin Alcazar, now deceased, applied for the registration of several parcels of land, situated in the municipalities of Pilar and Castilla, province of Sorsogon. The decision of the Court of First Instance of Sorsogon granting said application was affirmed by the Court of Appeals in 1952. The corresponding decree and Certificate of Title No. O-32, in the name of Father Alcazar, were issued on July 14, 1953. On January 19, 1954, petitioner filed, with the Register of Deeds of Sorsogon, a deed of sale executed by Father Alcazar in favor of Msgr. Pedro P. Santos, as Bishop of Nueva Caceres, of the properties covered by said Original Certificate of Title No. O-32, and a sworn statement of Msgr. Pedro P. Santos, as well as a deed of cession executed by the latter, in his capacity then as Archbishop of Nueva Caceres, in favor of petitioner herein. Upon registration of these documents, said Original Certificate of Title No. O-32 was cancelled and, in its place, Transfer Certificate of Title No. 656, in the name of the Roman Catholic Bishop of Nueva Caceres, was issued. Then the register of deeds cancelled the latter, and issued, in lieu thereof, Transfer Certificate of Title No. 657, in the name of the petitioner.

Subsequently, or on April 20, 1954, respondents Concepcion H. Luna and her husband, Ignacio A. Luna, together with seventeen (17) other persons, instituted Special Civil Action No. 879 of the Court of First Instance of Sorsogon against Msgr. Pedro P. Santos and petitioner herein. The petitioners in said Case No. 879 alleged that sixteen (16) of them, including Concepcion H. Luna, were nephews and nieces, as well as heirs of the deceased Father Alcazar; that the other petitioners therein, including Ignacio A. Luna, were husbands of some of these heirs; that Father Alcazar died intestate in Guinobatan, Albay, on September 29, 1953, leaving immovable properties in the municipalities of Pilar and Castilla, Sorsogon, which were in the possession and under the administration of said Ignacio A. Luna, the administrator appointed by Father Alcazar; that, upon application filed by the latter in 1947, the Court of First Instance of Sorsogon had ordered the registration of said properties in his name, in a decision rendered in 1951, which was affirmed by the Court of Appeals in 1952; that the corresponding decree and Original Certificate of Title No. O-32 were issued on July 14, 1953, in the name of Father Alcazar; that on January 19, 1954, the documents adverted to above were registered with the Office of the Register of Deeds of Sorsogon; that, as a consequence, the latter cancelled Original Certificate of Title No. O-32 and issued, in its stead, Transfer Certificate of Title No. 656, in the name of the Roman Catholic Bishop of Nueva Caceres, and then cancelled this transfer certificate of title and issued, in lieu thereof, Transfer Certificate of Title No. 657,

in the name of the Roman Catholic Bishop of Legaspi; that the cancellation of Original Certificate of Title No. Q-32 and the issuance of Transfer Certificate of Title Nos. 656 and 657 were illegal because the alleged right of Msgr. Santos over the property covered by Original Certificate of Title No. O-32 had ceased to exist upon the issuance thereof; and that, accordingly, the conveyance of Msgr. Santos to the Bishop of Legaspi was null and void. The prayer in said petition was as follows:

"POR LAS CONSIDERACIONES ARRIBA EXPUESTAS, al Hon. Juzgado respetuosamente pide: (a) Dicte sentencia, ordenando a Mons. Flaviano B. Ariola, a devolver al Registrador de Titulos de la provincia de Sorsogon, el Certificado de Transferencia de Titulo No. 657; (b) Ordenando al Registrador de Titulos de la provincia de Sorsogon, la cancelacion del Certificado de Transferencia de Titulo No. 657 y (c) Ordenando al Registrador de Titulos para que expida un nuevo Certificado de Transferencia de Titulo en sustitucion del Certificado Original de Titulo No. O-32, a nombre del finado Rev. P. Martin Alcazar. Pide tambien cualquier otro remedio que en derecho procede."

On August 31, 1955, the Court of First Instance of Sorsogon rendered a decision dismissing the petition in said Special Civil Action No. 879, with costs against the petitioners therein. Said decision was on appeal affirmed by this Court in G. R. No. L-9914, (102 Phil., 588) on December 19, 1957. Soon thereafter, or on March 11, 1958, petitioner herein filed, in the corresponding land registration case, a "motion for the issuance of a writ of possession" against the petitioners in the aforementioned Special Civil Action No. 879. This motion was granted by an order, dated April 1, 1958, of the Court of First Instance of Sorsogon, then presided over by the respondent Judge. However, said order was, on motion for reconsideration filed by Mr. and Mrs. Luna, set aside by another order of respondent Judge, dated June 23, 1958, upon the theory that, more than five (5) years having elapsed since the rendition of final judgment in the land registration case in 1952, a writ of possession could no longer be issued in 1958, pursuant to the rule laid down in *Sorongan vs. Makalintal* (80 Phil., 259; 45 Off. Gaz. 3819).

Upon refusal of respondent Judge to reconsider his last order, petitioner instituted the present action for mandamus, against respondent Judge and Mr. and Mrs. Luna. Petitioner maintains that respondent Judge is in duty bound, and should be directed, to issue the aforementioned writ of possession because the same may be availed of in land registration cases at any time, without limitation, as held in *Manlapas vs. Llorente* (48 Phil., 298), which, petitioner claims, should prevail over the view adopted in the *Sorongan* case, and because, even if the right to a writ of possession in land registration cases were not enforceable after five (5) years, as in other cases, said period had been suspended from the commencement of Special Civil Action 879 on April 20, 1954, to the promulgation of the decision of the Supreme Court in that case on December 19, 1957, so that, altogether, less than five (5) years have elapsed since the rendition of final judgment in the land registration case in 1952.

It is, however, unnecessary to pass upon these questions of law raised by petitioner herein. As assignee of the rights of the Archbishop of Nueva Caceres, who had merely the rights conveyed to him by Father Alcazar, the Bishop of Legaspi has no more rights over the properties covered by Transfer Certificate of Title No. 656 than those which Father Alcazar had as original owner thereof. Consequently, the implications of the question whether petitioner is entitled to a writ of possession against respondents, Mr. and Mrs. Luna, may become clearer if we ascertain whether Father Alcazar could have secured such writ against these spouses. In this connection, it should be noted that Mr. Luna held said properties as administrator thereof, appointed by no other than Father Alcazar, and, hence, in his name and behalf. Mr. Luna's possession was, in contemplation of law, a possession by Father Alcazar. As a consequence, the latter could not have availed himself of a writ of possession against Mr. Luna, for the former would then be using the writ against his alter ego, and, hence, against himself.

Indeed, a writ of possession in land registration cases may be issued only against the person defeated in the registration case and against "anyone unlawfully and adversely occupying the land or any portion thereof, during

the proceeding up to the issuance of the final decree" (*Demorar vs. Ibañez and Porras*, 97 Phil., 72; 51 Off. Gaz., 2872; *Pasay Estate Co. vs. Del Rosario*, 11 Phil., 391). Obviously, it cannot be used, either against the party in whose favor the land has been decreed to be registered, or against his representatives or successors in interest (*Antonio vs. Rocamora*, 106 Phil., 538; 60 Off. Gaz., [3] 331; *Sapangan vs. Decillo*, 63 Phil., 412; *Manuel vs. Rosario*, 56 Phil., 365; *Yuson vs. Diaz*, 42 Phil., 22). Inasmuch as Mr. Luna held the properties in question as agent of Father Alcazar, and, upon the latter's death, either as extra-legal administrator of his estate—something like a case of *negotiorum gestio*—or in trust and for the benefit of the nieces and nephews of the deceased, as his alleged heirs, it is apparent that the present possession of Mr. Luna is, in effect, an extension of that of Father Alcazar.

The issue before us would, legally be the same if Father Alcazar, either personally or thru his attorney-in-fact, had failed or refused to deliver the properties in question to Msgr. Santos or his agent. It would then be apparent that Msgr. Santos could not avail of a writ of possession in order to take hold of the property. He would have to, either sue for specific performance, or bring an action for ejectment.

Wherefore, without prejudice to petitioner's right to seek relief in the appropriate proceedings, the writ prayed for is hereby denied and the petition herein dismissed, with costs against the petitioner. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Barrera, and Gutierrez David, JJ., concur. Reyes, J.B.L., J., took no part.

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