

JUAN COJUANGCO, PETITIONER, VS. HON. PIO R. MARCOS, IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF BAGUIO, AND ENRIQUE J. L. RUIZ, RESPONDENTS.

G.R. No. L-31812. March 17, 1978

Ponente: AQUINO, J.

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AQUINO, J.:

Juan Cojuangco filed this mandamus action to compel the Court of First Instance of Baguio to order the execution of the judgment rendered by Judge Jesus de Veyra on April 28, 1959. In that judgment Enrique J. L. Ruiz is required to demolish the wall, which he had constructed on Cojuangco's lot, and to pay rentals and attorney's fees. The facts are as follows:

In 1934 Cojuangco purchased from the Bureau of Lands Lot 19 of the Kisad Subdivision, Residence Section A, Baguio, with an area of 3,127 square meters fronting 68th Street. After full payment of the price, or on August 2, 1952, the Director of Lands ordered the issuance of a patent to Cojuangco.

Due to the loss of the records during the war, the lot was resurveyed. After the resurvey, Lot 19 was found to contain 3,306 square meters, or an increase of 179 square meters. The increased area was attributable to the fact that the surveyor, instead of giving the street the mandatory width of fifteen meters, assumed that its width was only ten meters.

On the western side of Lot 19 is Lot 85-B-4, with an area of 848 square meters fronting Legarda Road. Ruiz bought that lot in 1952 from Mariano V. Gaerlan. After Cojuangco had rejected the offer of Ruiz to buy a portion of Lot 19 to be used as his (Ruiz's) driveway, Ruiz filed a sales application with the Bureau of Lands for the purchase of the excess area of 179 square meters. Cojuangco opposed that application. He applied for the purchase of the same excess area.

While those two sales applications were pending, or in 1953, Ruiz constructed a retaining wall and driveway on the southwestern portion of Lot 19. He ignored the warning of the land authorities not to introduce any improvement in that area.

The Director of Lands in 1954 upheld Cojuangco's preemptive right to purchase the excess of 179 square meters. He directed Ruiz to remove his improvement on the contested portion of Lot 19. Cojuangco paid the price of the excess area.

Ruiz appealed to the Secretary of Agriculture and Natural Resources who in 1957 ruled that Ruiz should be allowed to purchase 49 square meters for his driveway. Not satisfied with that administrative decision, Cojuangco filed an action in the Court of First Instance of Baguio against Ruiz and the Secretary. He prayed that the Secretary's decision be set aside (Civil Case No. 705).

In the same court Cojuangco sued Ruiz for damages, for the recovery of the excess area of 179 square meters, and for the demolition of the stonewall constructed by Ruiz (Civil Case No. 478).

The trial court found that Ruiz had encroached upon Cojuangco's lot to the extent of 84 square meters. As already noted, it ordered Ruiz, as a builder in bad faith, to demolish his wall, to pay P2,520 as accrued rentals and P420 as rental per year, plus P1,000 as attorney's fees. The Court of Appeals affirmed that decision.

In the other case, the trial court affirmed the decision of the Secretary of Agriculture and Natural Resources but the Court of Appeals reversed it and ordered that the amount paid by Cojuangco for the excess of 179 square meters be refunded to him. Both the trial court and the Court of Appeals found that there was no gap or no public land between the lot of Ruiz and Cojuangco's lot. (CA-G.R. Nos. 26590-R and 27811-R, November 24, 1964).

The petition of Ruiz for the review of the decision of the Court of Appeals was denied in this Court's resolution of July 16, 1965 (L-24451 and L-24552, Ruiz vs. Cojuangco).

During the pendency of the two cases in the Court of Appeals, or specifically on October 28, 1959, Atty. Antonio C. Masaquel, as counsel of Cojuangco, requested the Director of Lands to issue a patent for the uncontested portion of Lot 19 without prejudice to his claim for the disputed portion with an area of 85 (84) square meters (pp. 129-130, Rollo).

Acting favorably on that request, the Director of Lands issued to Cojuangco on September 16, 1960 a patent for Lot 19-A with an area of 3,040 (instead of the original area of 3,127 square meters or a difference of 87 square meters). Based on that patent, Original Certificate of Title No. P-249 was issued to Cojuangco on November 4, 1960. The contested area not included in the title came to be known as Lot 19-C.

On January 6, 1966 Cojuangco, through another lawyer, Antonio N. Lucero, Jr., filed a motion in the lower court for the execution of its final judgment against Ruiz. Judge Pio R. Marcos, who had succeeded Judge De Veyra, granted the motion.

However, the execution was not implemented because the lower court, in an order dated July 30, 1966, gave Ruiz ninety days from that date within which to pay the money judgment. In a subsequent order Ruiz was given an additional sixty days to satisfy the judgment.

As Ruiz did not make any payment, an alias writ of execution was issued and a levy was made on one of his lots. The levy was not pushed through. In an order dated September 26, 1967 the lower court granted Ruiz, who appeared in the Judge's chambers on that date, sixty days to prepare a sketch plan of the contested area and to file the proper pleading.

On November 27, 1967 the lower court granted Ruiz's ex parte motion that the district land officer be authorized to make a resurvey of the lots of Ruiz and Cojuangco. On January 24, 1968 Cojuangco filed a motion for a second alias writ of execution. It was not acted upon.

On April 2, 1969, the lower court granted the motion of Ruiz (filed on that day without notice to Cojuangco) to set aside the alias writ of execution. The lower court said that it appears from the record that the contested area of 85 square meters is public land and is not a part of Cojuangco's lot. Thus, by means of that order, the lower court nullified its judgment as affirmed by the Court of Appeals.

Cojuangco's motion of May 6, 1969 for the reconsideration of that order was resolved by the lower court three months later in its order of August 22, 1969, a copy of which was sent by registered mail to Cojuangco's counsel seven months thereafter, or on March 9, 1970 and received by him on March 17, 1970.

In that belated order, the lower court held that its 1959 decision was invalid because it was based on the "erroneous" assumption that the contested area of 85 square meters is a part of Cojuangco's lot, when, according to the resurvey plan, it is public land. The lower court noted that to enforce that decision would prejudice the State

and unjustly enrich Cojuangco.

On March 30, 1970 Cojuangco filed the instant mandamus action to compel the lower court to execute its 1959 judgment. He claimed damages amounting to P10,000 as attorney's fees and litigation expenses. His petition may be treated also as a petition for review under Republic Act No. 5440 of the lower court's orders of April 2 and August 22, 1969 which rendered nugatory its 1959 judgment.

Ruiz in his answer invoked the rule that a final judgment cannot be enforced "as to matters and things which have arisen after the final judgment was rendered and which would be a valid defense to the judgment" (Philippine Trust Company vs. Santamaria, 53 Phil. 463). He cited the doctrine that a trial court cannot be compelled by mandamus to execute a judgment, where there is evidence of an event or circumstance which would affect or change the rights of the parties, and the holding that a final judgment may be modified to harmonize it with justice and the facts if its execution becomes impossible or unjust (Abellana vs. Dosdos, L-19498, February 26, 1965, 13 SCRA 244; City of Butuan vs. Ortiz, 113 Phil. 636, 639).

Ruiz pleaded as a supervening fact his discovery that Cojuangco's lot (Lot 19-A, formerly Lot 19) has an area of only 3,040 square meters as shown in his 1960 Torrens title, instead of 3,127 square meters, the area which he claimed to have originally purchased from the Bureau of Lands in 1934, and that the contested area, identified now as Lot 19-C, lying between the lots of Ruiz and Cojuangco, could not be a part of Cojuangco's lot if its area is 3,040 square meters.

The petition for mandamus is meritorious. The lower court's orders abrogating its long final and executory judgment were issued with grave abuse of discretion and without due process of law and they are devoid of factual and legal justification.

Although Lot 19-C is not included in Cojuangco's title, it is no longer public land because it is really a part of Lot 19, with an area of 3,127 square meters, which was covered by Cojuangco's duly approved sales application and by the 1952 order of the Director of Lands for the issuance of a patent to him. He has an existing vested right in that contested portion. The rule is that the order for the issuance of a patent for public land is tantamount to the issuance of the patent itself. (Tinio vs. Frances, 98 Phil. 32. See Balboa vs. Farrales, 51 Phil. 498 and Gold Creek Mining Corporation vs. Rodriguez, 66 Phil. 259).

The issuance of the Torrens title to Cojuangco for the reduced area of 3,040 square meters was without prejudice to his claim for the contested area. He did not waive his vested right thereto. The lower court erred in characterizing Lot 19-C as public land and in not implementing the writ of execution.

The lower court's erroneous assumption that Lot 19-C is public land means that it proceeded on the wrong premise when it voided its 1959 judgment. In truth, Cojuangco may be entitled to a supplemental patent or an amended patent in order that the contested portion may be included in his Torrens title.

It results that it is ministerial and mandatory for the trial court to enforce its judgment. This case does not fall within any of the exceptions where a stay of execution is justified (City of Cebu vs. Mendoza, L-26321, August 19, 1975, 66 SCRA 174). Cojuangco is entitled as a matter of right to the execution of the judgment in his favor. The execution is compellable by mandamus (San Diego vs. Montesa, 116 Phil. 512).

The trial court did not have supervisory jurisdiction to interpret or reverse the decision of the appellate court affirming its judgment (Shioji vs. Harvey, 43 Phil. 333). Its 1959 decision is the law of the case and is res judicata. (See Arnedo vs. Llorente and Liongson, 18 Phil. 257, 263).

Considering that Ruiz resorted to tactics designed to frustrate the judgment against him and that he constrained

Cojuangco to file this mandamus action, he should be held liable for damages in the form of attorney's fees in the sum of one thousand pesos (Sec. 3, Rule 65, Rules of Court; 3 Moran's Comments on the Rules of Court, 1970 ed., p. 207; Art. 2208, Civil Code).

WHEREFORE, the lower court's orders of April 2 and August 22, 1969 are set aside. The petition for mandamus is granted. The lower court is directed to issue an alias writ of execution to enforce its judgment in Civil Case No. 478. Respondent Ruiz is ordered to pay the petitioner the sum of P1,000 as attorney's fees and the costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Santos, JJ., concur.

Concepcion, Jr., J., no part.

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