

HEIRS OF CRISTOBAL MARCOS, HEADED BY ANTONIO MARCOS, ET AL., PETITIONERS, VS. MARIA JESUS DE ERQUIAGA DE BANUVAR, GREGORIO PONDAL AND THE HON. MARIANO V. BENEDICTO, JUDGE OF THE...

G.R. No. L-22110. September 28, 1968

Ponente: CASTRO, J.

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CASTRO, J.:

This amended petition for certiorari [1] seeks (1) the elevation to this Court of the original records in land registration case no. 46, G.L.R.O. Record 32507 of the respondent Court of First Instance of Masbate, entitled "La Urbana, Solicitante, contra Director de Terrenos y otros, Opositores;" (2) the annulment of the respondent court's order of June 13, 1963 ordering the issuance of a decree in favor of the private respondent Maria Jesus de Erquiaga de Banuvar over lot 1, one of the several lots subject-matter of the aforesaid land registration case, and the order of July 16, 1963 ordering the issuance of a writ of possession over said lot in her favor and against the petitioners;[2] and (3) the annulment of OCT O-52 and TCT T-628, issued in the names of the respondent de Banuvar and Ticao Agro-Industrial Development, Inc., respectively.

The petitioners' thesis is that the respondent court "acted in excess of jurisdiction and with grave abuse of discretion" in ordering the issuance of the decree and of the writ of possession.

The antecedent facts are not complicated. On March 24, 1938 the respondent court rendered a decision in the aforesaid land registration case, which decision, among other things, confirmed the titles of La Urbana, Inc. over lot 5 and lot 1, Psu-56145, with certain reservations, and ordered the registration of these lots in favor of the latter. A copy of this decision was received on March 29, 1938 by Jose Grajo, with the notation, "Con mi exception."

On May 17, 1960 Santiago de Erquiaga, one of the successors-in-interest of La Urbana, Inc. filed a petition for reconstitution of the aforesaid decision of March 24, 1938. During the pendency of the reconstitution proceedings, the respondent de Banuvar acquired lot 1 from Santiago de Erquiaga, who was thus substituted as a party for the latter. The herein petitioners opposed, on a claim that they have been in actual, adverse, open and uninterrupted possession and occupation of the said parcel in the concept of owners since time immemorial, long before the second world war, and have introduced improvements thereon. They prayed that the application for the reconstitution of records be denied and that "the parcel(s) of land in question be ordered registered in the respective names of the herein oppositors or declare the same as public land and be subdivided to the oppositors who are landless."

For "lack of proper notices," the respondent court denied the petition. However, in its later order of January 30, 1962, the court reconsidered and granted the petition, in the following words:

"IN VIEW OF THE FOREGOING, and after due consideration, the petition of Maria Jesus de Erquiaga de Banuvar and Gregorio Pondal in substitution of Santiago de Erquiaga, for the reconstitution of the decision (Exhibit 'E'), well founded, the same is hereby granted. The decision rendered in Land Registration Case No.

46 (G.L.R.O. Record No. 32507) on March 24, 1938, is hereby ordered reconstituted.

"Once the applicant in said Land Registration Case No. 46 (G.L.R.O. Record No. 32507) has complied with the decision now reconstituted, let a decree be issued to the present petitioners, Maria Jesus de Erquiaga de Banuvar and Gregorio Pondal."

The petitioners interposed an appeal from this last order. On April 26, 1962 the respondent court dismissed the appeal "for failure to post the required bond," but withheld action on the motion for immediate execution as to lot 1 "until after this order dismissing the appeal shall have become final." The herein petitioners then filed a petition for mandamus with the Court of Appeals, to compel the trial court to give due course to their appeal. This petition (CA-G.R. 31045-R) was finally dismissed in June, 1963.

Meantime, the respondent de Banuvar on July 31, 1962 filed a motion for the issuance of a decree over lot 1. Attached to the motion were the plan and technical description of lot 1.[3] The petitioners opposed, contending that no plans and technical description were reconstituted in the order of January 30, 1962, and, therefore, there is no basis for the issuance of the decree; that the decision of March 24, 1938 is not final and executory because La Urbana, Inc. appears to have appealed from the said decision by virtue of a notation at the foot of the last page thereof that its counsel received the same "Con mi excepcion;" and that the situation of the parties in the land registration case has changed radically, making the execution of the said decision impossible. In reply, the private respondent de Banuvar asserted, among other things, that the issuance of the decree is but a ministerial duty of the respondent court, and would not prejudice the petitioners as they have other available remedies to protect their interests.

On June 13, 1963 the respondent court ordered the issuance of a decree in favor of de Banuvar with respect to lot 1 only, after finding that the decision in the land registration case had already become final and executory.

On June 24, 1963 the respondent court issued another order granting a writ of possession in favor of de Banuvar and "against all persons who have entered and occupied portions of lot 1, Psu-56145 before the issuance of the decree." This was supplemented by the order of July 16, 1963 which concludes, "Let, therefore, a writ of possession be issued in this case."

The petitioners asked for a reconsideration of the order of June 13, 1963, which was opposed by the private respondent. On October 22, 1963 the respondent court denied the motion for reconsideration on the grounds that it is "unmeritorious" and that it has become "moot" as "Decree No. N-94859 has already been issued by the Commission of Land Registration on July 1, 1963."

Hence the present recourse.

- It is initially contended that the decision of March 24, 1938 is not yet final and executory, because the La Urbana, Inc. appealed therefrom, as may be seen from the notation at the foot of the last page of the reconstituted decision stating, "Recibi copia. Con mi excepcion, Marzo 29, 1938. (FDO.) Jose Grajo." This contention is without merit.

We hold that the decision of March 24, 1938 has long become final and executory as no appeal was taken therefrom. The certification of the acting provincial land officer of Masbate, dated March 8, 1960, recites that no "appeal has been taken by the Director of Lands or any private oppositors from the decision rendered." The notation found at the foot of the last page of the reconstituted decision, showing that the La Urbana, Inc. excepted from that decision, did not have the effect of perfecting an appeal. An appeal was not perfected by the mere notation, "Con mi excepcion." The judgment rendered in a land registration case becomes final upon the expiration of thirty days to be counted from the date on which the party appealing receives notice of the

decision.[4]

The decision of March 24, 1938 having become final and executory, it devolved on both the respondent court and the Land Registration Commission to cause the issuance of a decree to the person adjudged entitled to registration, that is, as ordained, "el registro del lote No. 1, con todas sus mejoras, y con excepcion de las citadas mejoras pertenecientes al opositor Cristobal Marcos" in favor of the applicant La Urbana, Inc., or its successor-in-interest Santiago de Erquiaga, or the private respondent de Banuvar who substituted Santiago de Erquiaga.

The requirement contained in the decision of March 24, 1938 regarding the segregation of a portion on lot 1, subject of an agreement between the Director of Lands and the applicant, while it does leave something yet to be done, does not detract from the finality of the decision, because the segregation adverted to refers to a defined and delimited portion of the said parcel and may be accomplished anytime after the decision became final and executory.

- It is next contended that the decree issued to "Maria de Erquiaga de Banuvar with respect to Lot 1 only" is null and void and without any force and effect, because it was not based on any plan and technical description since no such plan and technical description were ordered reconstituted in the order of January 30, 1962, and all that was ordered reconstituted was the "decision rendered in Land Registration Case No. 46 (G.L.R.O. Record No. 32507) on March 24, 1938." This is not quite correct. As stated in the order granting the reconstitution, the petitioners presented" . . . Exhibit 'P', Tracing Cloth plan of Lot 1, Psu-56145 of the land conveyed by the La Urbana to Santiago de Erquiaga, the original petitioner in the present case, and Exhibit 'Q', the Technical Description of the same. . . ." These documents became part and parcel of the reconstituted decision itself. And upon motion of the private respondent, they were ordered transmitted to the Land Registration Commission. A copy of the order is annex A. The clerk of court's certification is annex B.

Indeed, it is now rather late for the petitioners to contest and assail the effectiveness of the order of January 30, 1962, granting the reconstitution of the decision of March 24, 1938, which order admitted and took into consideration exhibits P and Q. The said order is final and, therefore, unassailable.[5] They are therefore now barred from contesting the same.

- It is further contended that the respondent court acted in excess of jurisdiction and with grave abuse of discretion in granting a writ of possession in favor of the private respondent and "against all persons who have entered and occupied portions of Lot 1," the petitioners claiming that they have been "in actual, adverse and open possession and occupation of the said parcels of land (including portions of lot 1) in the concept of owners since time immemorial and long before the second world war ..." The petitioners apparently have in mind the doctrine laid down in Manuel, et al. vs. Rosauero, et al.,[6] to the effect that when the parties against whom a writ of possession is sought have been in possession of the land for at least ten years, and they entered into possession apparently after the issuance of the final decree, and none of them had been a party in the registration proceedings, the writ of possession will not issue. To the same effect is the holding in Maglasang vs. Maceren, et al.,[7] that a person who took possession of the land after final adjudication of the same in registration proceedings cannot be summarily ousted through a writ of possession secured by a mere motion, and that regardless of any title or lack of title of said persons to hold possession of the land in question, they cannot be ousted without giving them their day in court in proper independent proceedings.

The two above-mentioned cases are widely disparate from the case at bar. As can be gathered from the opposition to the petition for reconstitution, the petitioners' alleged possession and occupation of portions of lot 1 arose prior to or during the registration proceedings. For this reason, the order of June 24, 1963, granting a writ of possession

in favor of de Banuvar against the petitioners, is proper and justified. The petitioners herein admittedly took possession and occupation of portions of lot 1 prior to July 1, 1963 when the decree in question was issued. The fundamental rule is that a writ of possession can be issued not only against the original oppositors in a land registration case and their representatives and successors-in-interest, but also against any person unlawfully and adversely occupying said lot at any time before and up to the issuance of the final decree. This rule was affirmed in *Demoran vs. Ibañez, et al.*, [8] thus:

"A writ of possession may be issued not only against the person who has been defeated in a registration case but also against anyone adversely occupying the land or any portion thereof during the land registration proceedings (*Pasay Estate Co. vs. Del Rosario*, 11 Phil., 391; *Manlapas vs. Lorente*, 48 Phil., 298). The issuance of the decree of registration is part of the registration proceedings. In fact, it is supposed to end the said proceedings. Consequently, any person unlawfully and adversely occupying said lot at any time up to the issuance of the final decree, may be subject to judicial ejectment by means of a writ of possession and it is the duty of the registration court to issue said writ when asked for by the successful claimant."

Any question relative to the petitioners' claim of acquisitive prescription must be deemed foreclosed by their failure to appeal from the decision of the Court of Appeals in CA-G.R. 31045-R which dismissed their petition for mandamus.

- The final contention of the petitioners that the decree is void as it is based on a decision that has been rendered inefficacious by the statute of limitations and/or by laches, need not give us pause in view of the following observations made by this Court in *Sta. Ana vs. Menla, et al.* : [9]

"We fail to understand the arguments of the appellant. . . except in so far as it supports his theory that after a decision in a land registration case has become final, it may not be enforced after the lapse of a period of 10 years, except by another proceeding to enforce the judgment may be enforced within 5 years by motion, and after five years but within 10 years, by an action (Sec. 6, Rule 39.) This provision of the Rules refers to civil actions and is not applicable to special proceedings, such as a land registration case. This is so because a party in a civil action must immediately enforce a judgment that is secured as against the adverse party, and his failure to act to enforce the same within a reasonable time as provided in the Rules makes the decision unenforceable against the losing party. In special proceedings the purpose is to establish a status, condition or fact; in land registration proceedings, the ownership by a person of a parcel of land is sought to be established. After the ownership has been proved and confirmed by judicial declaration, no further proceeding to enforce said ownership is necessary, except when the adverse or losing party had been in possession of the land and the winning party desires to oust him therefrom.

"Furthermore, there is no provision in the Land Registration Act similar to Sec. 6, Rule 39, regarding the execution of a judgment in a civil action, except the proceedings to place the winner in possession by virtue of a writ of possession. The decision in a land registration case, unless the adverse or losing party is in possession, becomes final without any further action, upon the expiration of the period for perfecting an appeal. . . .

"... There is nothing in the law that limits the period within which the court may order or issue a decree. The reason is ... that the judgment is merely declaratory in character and does not need to be asserted or enforced against the adverse party. Furthermore, the issuance of a decree is a ministerial duty both of the judge and of the Land Registration Commission; failure of the court or of the clerk to issue the decree for the reason that no motion therefor has been filed can not prejudice the owner, or the person in whom the land is ordered to be registered."

ACCORDINGLY, the amended petition for certiorari is denied. No pronouncement as to costs.

Conception, C.J., Reyes, J.B.L., Makalintal, Sanchez, Angeles, Fernando and Capistrano, JJ., concur.

Dizon, J., did not take part.

Zaldivar, J., is on leave.

Petition denied.

[1] For "lack of appropriate allegations," the original petition for certiorari filed on Nov. 16, 1963 was dismissed. Pursuant to this Court's resolution of January 6, 1964, an amended petition for certiorari was filed on March 2, 1964.

[2] The petitioners, all told, number more than 266. Among these are the Heirs of Cristobal Marcos headed by Antonio Marcos, representing Cristobal Marcos, deceased and one of the original oppositors in the land registration case; the Heirs of Gliceria Anabe headed by Adriana Morado, representing Gliceria Anabe, also deceased and another original oppositor therein; Manuel Anabe, representing Luis Anabe, also deceased and another original oppositor, therein; Pedro, Tomas and Emiliana, all surnamed Deinla, who claim to have "bought said portions owned by them" from Vicente Dejumo, Rufino Espinosa and Anastacia Madrilejo de Villamor, also original oppositors therein.

[3] Annex A, pp. 89-90, Record.

[4] Sec. 26, Act 2347; Govt. of P.I. v. Saenz, 45 Phil. 117; Ventura, Land Registration and Mortgages, p. 146.

[5] The appeal interposed by the petitioners from this order was dismissed by the respondent court for "failure to post the required bond." The petitioners then filed a petition for mandamus with the Court of Appeals. This petition was dismissed. No further action was thereafter taken by the petitioners.

[6] 56 Phil. 365.

[7] 83 Phil. 637.

[8] 97 Phil. 72, 74; see also Soroñgon vs. Makalintal, 80 Phil. 259,260-261; Abulocion, et al. vs. CFI of Hoilo, et al., 100 Phil 554, 561-562.

[9] L-15564, April 29, 1961, 1 SCRA 1297-1298.

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