

SUPERIOR BALDOZ, PLAINTIFF AND APPELLANT, VS. SERAPIA PAPA, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-18150. July 30, 1965*

Ponente: DIZON, J.

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On January 7, 1957, the spouses Bruno Papa and Valentina Agaceta, parents of herein appellees, applied for the registration under Act 496 of a parcel of land (Psu-59688) containing an area of 37,671 sq. meters in the Court of First Instance of Pangasinan (Case No. 2215, L.R.C. Record No. 12389). After the requisite publication of the application in the Official Gazette, the case was called for hearing on May 16, 1957 in the course of which an order of general default was entered. On the same date, however, Baldomero Baldoz, father of herein appellant, filed a petition to lift the order of default as against him and praying that his opposition to the application, thereto attached, be admitted. On the same date, the court granted the petition, and the case was reset for hearing on October 1, 1958. Prior to this date, however, oppositor Baldoz died. His son, herein appellant Superior Baldoz, appears not to have informed the court about his father's death. As a result, the notice of the hearing scheduled for October 1, 1958 was addressed to the latter and was returned unserved.

On September 11, 1958, appellees were allowed to substitute the original applicants from whom they appeared to have purchased the land in question.

At the scheduled hearing on October 1, 1958, appellees and their counsel were present but there was no appearance for any oppositor. Upon motion of the former, the court allowed them to present evidence in support of their application while, at the same time, declaring the original oppositor, Baldomero Baldoz in default for non-appearance. On October 10, 1958, the latter's counsel filed a motion to set aside the order of default alleging that the reason for the non-appearance of oppositor Baldoz was his death on July 28, 1957 and praying that his son, appellant herein, be substituted as party-oppositor. Although this motion was denied on October 31 of the following year, appellant appears not to have appealed from the order of denial aforesaid.

On February 16, 1959, the court rendered judgment decreeing the registration of the parcel of land described in Psu 59688 in favor of appellees. After this judgment had become executory, the court issued an order for the issuance of the decree on May 4, 1959. By virtue thereof, the Land Registration Commission issued on June 16, 1959 Decree No. N-71779, and pursuant thereto the Register of Deeds of Pangasinan subsequently issued Original Certificate of Title No. 15264 in their names.

On June 17, 1959, appellees filed a "Motion for Issuance of Writ of Demolition" and a "Motion for Issuance of Writ of Possession", to which appellant filed an "Opposition to the Petition for Demolition of Fences, and Counter Petition to Stay the Effects of Judgment". The opposition was denied in an order of February 9, 1960. Three weeks later, appellant commenced the present action in the Court of First Instance of Pangasinan (Civil Case No. D-1036) against appellees for the annulment of the decision in Registration Case No. 2215 on the grounds (1) that the Court in said case committed a reversible error in declaring oppositor Baldoz in default despite his having

filed a written opposition which was duly admitted by it and (2) that its order denying appellant's motion for substitution as oppositor therein has deprived him of his day in court.

Appellees moved to dismiss the complaint on the following grounds: that appellant had no legal capacity to sue; that the complaint stated no cause of action; and that the cause of action is barred by prior judgment or by the statute of limitations.

On September 30, 1960, the court issued an order dismissing the complaint on the grounds (1) that the final judgment in Registration Case No. 2215 is res judicata in the present action and (2) that the instant action, being in the nature of a petition for review of a decree, cannot prosper because it was filed more than one year from the date of the issuance of the decree and because it is not based on fraud as provided for in Section 38 of Act 496. The present case is an appeal from said order.

Appellant contends that when the lower court rendered its judgment it had already lost its jurisdiction over the person of Baldomero Baldoz who died on July 28, 1958—a fact known to said court since October 10, 1958 when the heirs of said deceased filed their motion for leave to take his place as oppositor.

We find this to be without merit.

As stated heretofore, the motion aforesaid filed by appellant and his co-heirs was denied by the lower court. The order of denial was obviously final and conclusive upon the matter of their right to substitute the deceased. On the other hand, it seems clear that by filing said motion and asking for an affirmative relief, appellant and his co-heirs had submitted to the jurisdiction of the court. This notwithstanding, they failed to appeal from the order of denial, with the result that the same as well as the registration proceedings must now be deemed final and conclusive against them.

In the remaining assignment of errors, appellant assails the ruling of the trial court to the effect that the judgment rendered in the registration proceedings is res judicata. This We also find to be without merit.

It is settled that registration proceedings are in rem—binding upon the whole world—and that a final decree of registration issued therein in accordance with law is reviewable only within one year and upon the ground of fraud. The allegations of the complaint filed below do not make out any case of fraud justifying the reopening of such decree. This on the one hand. On the other, any petition to set aside the decree and reopen the registration proceedings must be filed within one year from the issuance thereof, not in the form of a separate action but in the form of a motion filed in the same registration proceeding where the decree was issued.

Wherefore, the decision appealed from is affirmed, with costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Regala, Makalintal, Bengzon and Zaldivar, JJ., concur.

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