

ELISA D. GABRIEL, PETITIONER AND APPELLEE, VS. REGISTER OF DEEDS OF RIZAL, RESPONDENT. JUANITA R. DOMINGO, OPPOSITOR AND APPELLANT.

G.R. No. L-17956. September 30, 1963

Ponente: PAREDES, J.

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PAREDES, J.:

On January 4, 1960, petitioner herein Elisa D. Gabriel, filed with the Register of Deeds of Manila, an Adverse claim, against the properties registered in the name of oppositor-appellant, Juanita R. Domingo, her sister. As grounds for the adverse claim, petitioner allege—

"Notwithstanding the registration of the foregoing properties in the name of Juanita R. Domingo, the same properties have been included in the amended inventory of the estate of the late Antonia Reyes Vda. de Domingo, filed by Elisa Domingo de Gabriel [1] as they are in fact properties acquired by the deceased during her, lifetime. The registration of the titles of these properties should have been made in the name of said Antonia Reyes Vda. de Domingo, but due to commission of fraud and deceit, by said Juanita R. Domingo, who was then living in the same house with the deceased, all the titles of the above stated properties were registered instead in her name, thus depriving herein adverse claimant who is likewise an heir of Antonia Reyes Vda. de Domingo, of her lawful rights, interests and participations over said properties."

On the same date, a similar notice of adverse claim was presented by petitioner with the Register of Deeds of Rizal, on the properties registered in the name of Juanita R. Domingo, located in Rizal Province, the ground for which was stated as follows—

"The foregoing properties are included in the amended inventory of the estate of their late mother Antonia Reyes Vda., de Domingo, who is the true owner of said properties, and considering that the registrations in the name of Juanita R. Domingo were only made fraudulently, thus depriving herein adverse claimant of her lawful rights, interest and participations over said properties."

For the adverse claim on the Manila properties, Domingo presented an opposition, claiming that the adverse claim was instituted for (1) Harassment; (2) Had no legal basis; and (3) Had done and will do irreparable loss to her.

Special Proceeding No. 2658 CFI of Rizal, still pending.

The Register of Deeds of Manila, elevated the matter to the Land Registration Commission en Consulta, wherein he stated—

"Because the undersigned is in doubt as to whether the registration of the claim is proper under the circumstances, the same is hereby submitted for proper determination by this Commission." Oppositor Domingo also asked that the adverse claim of Gabriel on her Rizal properties be denied, contending that same was presented only to embarrass her; that said properties were acquired by her pursuant to an extrajudicial partition in which the petitioner Gabriel and their mother (Antonio), were signatories.

On January 13, 1960, the Register of Deeds of Rizal denied registration of the Notice of Adverse Claim, stating—

"P.E. No. 90080-NOTICE OF ADVERSE CLAIM has/have been found to be legally defective or otherwise not sufficient in law and is/are, therefore, hereby denied on the following ground: 'Where there are other provisions or remedies under this act, the affidavit of adverse claim is not applicable.'"

Under date of January 21, 1960, Elisa D. Gabriel appealed the above denial to the Land Registration Commission.

On February 17, 1960, the Register of Deeds of Rizal, in his letter transmitting the case to the LRC, tried to justify his denial to annotate the affidavit of Adverse claim, by pointing out that such procedure was not proper, contending that petitioner's case does not come under the provisions of Section 110 of Act 496. If at all, he claims, petitioner should have availed of Section 98 thereof. On March 7, 1960, the LRC heard the two cases, and before any of the parties could file his memorandum, the Register of Deeds of Rizal, presented a Supplemental Memorandum, reiterating his stand. In his reply, Gabriel clarified the issue, stating that the question, at bar concerns the fraudulent registration by oppositor, of the properties subject of the Adverse Claims, and not their fraudulent acquisition.

The Land Registration Commission, on April 29, 1960, issued a resolution, the pertinent portions of which are reproduced hereinbelow—

"The only question to be resolved by this Commission in these related consultas is the registration of the two notices of adverse claim filed with the Registries of Manila and Rizal. Whether or not these adverse claims are valid, whether or not they are frivolous and merely intended to harass, and such other litigious matters raised by the protagonist, are for a court of competent jurisdiction, and not for this Commission, to decide.

Sec. 110. of Act No. 496, provides that—

"Whoever claims any part or interest in registered land adverse to the registered owner arising subsequent to the date of the original registration, may, if no other provision is made in this Act for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, and a reference to the volume and page of the certificate of title of the registered owner, and a description of the land in which the right or interest is claimed.

The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and designate a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim,, and the court, upon petition of any party in interest, shall grant a specific hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. If the claim is adjudged to be invalid, the registration shall be cancelled. If in any case the court after notice and hearing shall find that a claim thus registered was frivolous or vexatious, it may tax the adverse claimant, double or treble the costs in its discretion.

It is believed that the two notices of adverse claim filed in both registries substantially comply with the above requirements. And under paragraph 5 of LRC Circular No. 2, dated July 10, 1954, 'where the document sought to be registered is sufficient in law and drawn up in accordance with existing requirements, it becomes incumbent upon the Register of Deeds to perform his ministerial duty without unnecessary delay.

The registration of an invalid adverse claim will not do so much harm as the non-registration of a valid one. The notation of an adverse claim, like that of *lis pendens*, does not create a non-existent right or lien and only means that a person who purchases or contracts on the property in dispute does so subject to the result or outcome of the dispute. * * *.

* * * * *

In view of the foregoing facts and considerations, this Commission is of the opinion, and so holds, that the

notices of adverse claim filed by Elisa D. Gabriel with the Registries of Manila and Rizal are registrable. Registration should not however be confused with validity. The registration of the adverse claims will not by itself alone make them valid. Their validity will be ultimately be decided in Special Proceeding No. 2658 or, in the alternative, in the more expeditious remedy provided for in Sec. 110 of Act No. 496., i.e., a speedy hearing upon the question of the validity of the adverse claim."

Oppositor Domingo moved for a reconsideration of the above order, contending, in the main, that a Register of Deed exercises some degree of judicial power to determine upon his own responsibility, the legality of instruments brought before him for registration. In other words, oppositor submits that duties of the Registers of Deeds are not wholly ministerial, for they can and/or suspend the registration of documents when they think they are not valid or not registrable. In denying the motion for reconsideration, the Land Registration Commissioner said, in part—

"The only question resolved by this Commission was the registrability of the two notices of adverse claims. The allegations and counter- allegations of the contending parties on the validity or invalidity of the adverse claims were not considered. They should be addressed to and decided by a competent court."

With the denial of the motion for reconsideration, oppositor brought the matter to this Court on Appeal, claiming that the Land Registration Commission erred (1) in holding the adverse claims registrable; and (2) in holding that it is the mandatory duty of the Register of-Deeds to register the instant notices of adverse claims "whether or not they are valid, whether or not they are frivolous and merely intended to harass."

In addition to the well-taken disquisitions of the L.R.C., it should be observed that Section 110 of Act No. 496, which is the legal provision applicable to the case, is divided into two parts: the first refers to the duty of the party who claims any part or interest in registered land adverse to the registered owner, subsequent to the date of the original registration; and the requirements to be complied with in order that ,such statement shall be entitled to registration as an adverse claim, thus showing the ministerial function of the Register of Deeds, when no defect is found on the face of such instrument; and the second applies only when, after registration of the adverse claim, a party files an appropriate petition with a competent court which shall grant a speedy hearing upon the question of the validity of such adverse claim, and to enter a decree, as justice and equity require; and in this hearing, the competent court shall resolve whether the adverse claim is frivolous or vexatious, which shall serve as the basis in taxing the costs. In the instant case, the first part was already acted upon by the L.R.C. which resolved in favor of the registrability of the two adverse claims and this part should have been considered as closed. What is left, is the determination of the validity of the adverse claims by competent court, after the filing of the corresponding petition for hearing, which the appellant had not done.

Anent the second assignment of error, the Land Registration Commission did not state that it was mandatory for a Register of Deeds to register invalid or frivolous documents, or those intended to harrass; it merely said that whether the document is invalid, frivolous or intended to harrass, is not the duty of a Register of Deeds to decide, but a court of competent jurisdiction, and that it is his concern to see whether the documents sought to be registered conform with the formal and legal requirements for such documents.

Wherefore, the Resolution of the Land Registration Commission, holding the registrability of the Adverse Claims under consideration, should be, as it is hereby affirmed, with costs against oppositor-appellant Juanita R. Domingo.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Dizon, Regala and Makalintal, JJ., concur.

[1] Special Proceeding No. 2658 CFI of Rizal, still pending.

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