

RAFAEL MARCELO, PETITIONER, VS. HON. EULOGIO MENCIAS ETC., ET AL., RESPONDENTS.

G.R. No. L-15609. April 29, 1960

Ponente: BARRERA, J.

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BARRERA, J.:

The issue in this petition for certiorari and mandamus is whether the Court of First Instance of Rizal, sitting as a land registration court, has jurisdiction or authority to order the demolition of improvements, as a consequence of a writ of possession issued by it.

On June 9, 1954, petitioner Rafael Marcelo applied for registration in his name, 3 parcels of land (lots 1, 2, and 3) located at Taguig, Rizal. His application was opposed by Leocadio Pagsisihan, father and predecessor-in-interest of respondent Clemente Pagsisihan.

On February 28, 1955, the Court of First Instance of Rizal, sitting as a land registration court, rendered a decision in favor of petitioner, declaring him to be the owner of only 1 of the 3 lots applied for; denying the opposition of the then oppositor Leocadio Pagsisihan; and declaring the 2 other lots to be public lands. Not satisfied with the decision, petitioner appealed to the Court of Appeals; not so the oppositor Pagsisihan. The appellate court reversed the decision of the land registration court, holding that petitioner is also the owner of the 2 other lots which were declared public lands.

After said judgment of the Court of Appeals became final and executory, respondent Judge, upon petitioner's motion, issued an order for the issuance of a decree in favor of the latter, and forthwith a certificate of title was issued for all said lots in the name of petitioner.

Since respondent Clemente Pagsisihan refused to deliver possession of the 2 lots (lots 2 and 3) which were occupied by him, petitioner filed a petition for the issuance of a writ of possession, which petition was duly opposed by said respondent. On March 14, 1959, respondent Judge granted the petition, stating.

"Rafael Marcelo, applicant in the above-entitled land registration case, filed a petition for the issuance of a writ of possession and particularly over that portion of the land occupied by Leocadio Pagsisihan. Counsel for one Clemente Pagsisihan (herein respondent) who is not a party to the case objected to the petition stating that Leocadio Pagsisihan who opposed the application is not in possession of any portion of the property object of the case as he died on August 28, 1958. In the case of *Manlapas vs. Llorente*, 48 Phil., 298, it was held that after the registration of the land is decreed in favor of the applicant, the latter may ask the proper court for the issuance of a writ of possession provided the same has not been issued before. In the case of *Pasay Estate Company vs. Del Rosario*, 11 Phil., 391, as well as in the above cited case, it was held that the writ of possession maybe issued not only against the person who has been defeated in the registration case but also against anyone occupying the land or portion thereof during the registration proceeding. In view of the foregoing, the Court is of the opinion that the petition is well-taken."

In spite of the issuance of the writ of possession to petitioner, respondent Clemente Pagsisihan. refused to

surrender the possession of said lots 2 and 3 and to remove his house standing thereon. Petitioner, therefore, filed a petition for demolition. On May 2, 1959, respondent Judge denied the same, in an order of this tenor:

"The Court, acting as Land Registration Court not having jurisdiction to order the demolition sought for in the present petition, thereby denied the said petition."

From this order, petitioner, on May 19, 1959, filed a motion for reconsideration (Annex A) contending, inter alia, that under the jurisprudence on the matter, the court has jurisdiction to issue an order of demolition which is simply the coercive process or remedy to render effective the writ of possession already issued by it. On June 8, 1959, said motion was denied by the court, in an order which reads:

"ORDER"

"This is a motion for reconsideration of the order of this Court dated May 2, 1959 denying movant's motion praying for tire issuance of a writ of demolition directed against the house of one Clemente Pagsisiban (herein respondent) on the ground that this Court acting as a land registration court does not have jurisdiction to order the demolition prayed for. Movant contends that this Court under the authority of decisions rendered in *Demorar vs. the Hon. Judge Ibañez, et al.*; 51 Off. Gaz., No. 6, p. 2872; *Pasay Estate Co., Ltd. vs. the Hon. Judge del Rosario*, 11 Phil., 891; and *Follosco vs. Director of Lands*, G.R. No. L-4991, March, 23, 1953, has jurisdiction to issue an order of demolition. The first two cases speak of the issuance of a writ of possession in favor of the movant in the case. The last cited case ia not in point. The doctrine speaks of a final judgment involving delivery or restitution of property. Under Section 13, Rule 39, the officer called upon to enforce such judgment according to the doctrine laid down may do so by placing the plaintiff in possession of such property and a special order of demolition may be issued after the defendant has failed to remove the improvements on the property within a reasonable time to be fixed by the court and after such defendant shall have been given a due hearing. The instant case is not an action involving delivery or restitution of property but one for the purpose of determining whether applicant or the oppositor is the owner of tho property sought to be registered and to order the registration of the title of the person who is found to have a registrable title thereto. As a matter of fact, in the first case cited by movant, it speaks only of the issuance of a writ of possession in favor of the successful claimant. Section 13 of Rule 39 of the Rules of Court in the opinion of the Court refers only to ordinary action involving the delivery or restitution of property and not to proceedings under the Land Registration Law. The provision of the Land Registration Law are silent on the point.

"In view of all the foregoing considerations, the Court resolves to deny the motion for reconsideration. "So ordered."

Hence, this petition for certiorari and mandamus. Respondents court and oppositor have filed no answer to this petition.

It is contended that respondent Judge erred in denying the petition for demolition. To this we agree. Section 13, Rule 39 of the Rules of Court, provides:'

"SEC. 13. How execution for the delivery or restitution of property enforced.—The officer must enforce an execution for the delivery or restitution of property by placing the plaintiff in possession of such property, and by levying as hereinafter provided upon so much of the property of the judgment debtor as will satisfy the amount of the costs, damages, rents, and profits included in the execution. However, the officer shall not destroy, demolish or remove the improvements made by the defendant or his agent on the property, except by special order of the court, which order may only issue upon petition of the plaintiff after due hearing and upon the defendant's failure to remove the improvements within a reasonable time to be fixed by the court."

Respondent Judge is of the view that the above-quoted provision of the Rules of Court applies only to ordinary actions involving the delivery or restitution of property, and not to proceedings under the land registration law

which, according to him, is silent on the point. The view is not correct, for the reason that the provisions of the Rules of Court are applicable to land registration cases in a suppletory character (Rule 132). Put differently, if the writ of possession issued in a land registration proceeding implies the delivery of possession of the land to the successful litigant therein (*Demorar vs. Ibañez*, 97 Phil., 72; 51 Off. Gaz., 2872; *Pasay Estate Company vs. Del Rosario, et al.*, 11 Phil., 391; *Manlapas vs. Llorente*, 48 Phil., 298), a writ of, demolition must, likewise, issue, especially considering that the latter writ is but a complement of the former which, without said writ of demolition, would be ineffective.

Apparently, respondent Judge, in refusing to issue the writ of demolition to petitioner, was of the belief that the latter has another remedy, namely, by resorting to ordinary civil actions in the regular courts, such as that of forcible entry and detainer, or the recovery of possession, in which instances, said courts would then be competent to issue said writ. Such a situation, in our opinion, could not have been intended by the law. To require a successful litigant in a land registration case to institute another action for the purpose of obtaining possession of the land adjudged to him, would be a cumbersome process. It would foster unnecessary and expensive litigations and result in multiplicity of suits, which our judicial system abhors. In this connection, this Court on one occasion, said:

"But this construction of the law entirely defeats its purpose. It would compel a successful litigant in the Court of Land Registration to commence other actions in other courts for the purpose of securing the fruits of his victory. The evident purpose of the law was to prevent that very thing; * * * (*Pasay Estate Co. vs. Del Rosario, et al.*, *supra*.)

Furthermore, Section 6, Rule 124, of the Rules of Court states that—

"When by law jurisdiction is conferred on a court of judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by these rules, any suitable process or mode of proceeding may be adopted which appears most conformable to the spirit of said rules."

As already stated, provisions of the Rules of Court are applicable to land registration cases in a suppletory character. Pursuant to the provision just quoted, respondent Judge has the power to issue all auxiliary writs, including the writ of demolition sought by petitioner, processes and other means necessary to carry into effect the jurisdiction conferred upon it by law in land registration cases to issue a writ of possession to the successful litigant, the petitioner herein.

Lastly, in the case of *Shioji vs. Harvey*, 43 Phil., 333, we pointed out that "Independent of any statutory provision, * * * every court has inherent power to do all things reasonably necessary for the administration of justice within the scope of its jurisdiction." [1] In line with this doctrine, it may be stated that respondent judge, in the instant case, has the inherent power to issue the writ of demolition demanded by petitioner. Needless to say, its issuance is reasonably necessary to do justice to petitioner who is being deprived of the possession of the lots in question, by reason of the continued refusal of respondent Clemente Pagsisihan to remove his house thereon and restore possession of the premises to petitioner.

Wherefore, the orders of respondent Judge dated May 2, 1959 and June 8, 1959 are set aside, and the case remanded to the court of origin for further proceedings on petitioner's petition for an order of demolition, pursuant to Section 13, Rule 39, of the Rules of Court. Respondent Clemente Pagsisihan will pay the cost. So ordered.

Paras, C. J., Bengzon, Bautista Angelo, Concepcion, Endencia, and Gutierrez David, JJ., concur.

Padilla, J., on leave, took no part.

[1] *Suanes vs. Chief Accountant*, 81 Phil., 818 see also *Eraña vs. Vera*, 74 Phil., 272. *Fernando vs. Aragon*, 76 Phil., 609.

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