

IN RE: PETITION TO CANCEL TRANSFER CERTIFICATE OF TITLE NO. RT-647 (13474), HU CHON SUNPONGCO, PETITIONER-APPELLEE, VS. HEIRS OF NICOLAS RONQUILLO AND FELIPA SALDARIEGA, MOVANT...

G.R. No. L-27040. December 19, 1970

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

In this appeal from an order of the Court of First Instance of Zamboanga del Norte (Cad. Case No. 2, LRC Cas. Rec. No. 77, Misc. Sp. Proc. No. 1176), the extent of the jurisdiction of the land registration court is once more put in issue.

The records of this case show that on 27 June 1916, the spouses Nicolas Ronquillo and Felipa Saldariega were adjudged by the Court of First Instance of Zamboanga, sitting as a cadastral court, as absolute owners of Lot No. 419 of the cadastral survey of Dipolog (Cad. Cas. No. 2, GLRO Cad. Rec. No. 77). The corresponding certificate in the names of the said spouses (OCT No. 5736) was accordingly issued on 24 August 1917.

On 2 October 1918, the husband Nicolas Ronquillo executed a deed of sale with right of repurchase in favor of San Tiao Ong and Cirilo Sunpongco, by virtue of which the vendor a retro, his heirs and successors-in-interest undertook to pay to the named vendees the sum of P2,000.00 within four years, the contract further providing that failure to make the payment will convert the contract into a consummated absolute sale. On the same day, Nicolas Ronquillo appears to have signed another document -- a waiver in favor of San Tiao Ong and Cirilo Sunpongco of his right of redemption in connection with the aforementioned pacto de retro sale. It likewise appears in the records that on 30 December 1920, Cirilo Sunpongco ceded his right under the pacto de retro sale in favor of San Tiao Ong, for the sum of P500.00; and on 29 April 1922, San Tiao Ong in turn ceded in favor of Cirilo Sunpongco all his rights in the same pacto de retro sale for P200.00. Over one year later, on 24 October 1923, the original certificate of title in the names of the Ronquillo spouses was cancelled and a new one was issued in the name of Cirilo Sunpongco (TCT No. 5006). Then, on 8 April 1941, by order of the land registration court in the same case, TCT No. 5006 in the name of Cirilo Sunpongco was cancelled and TCT No. RT-647 (13474) was issued in the names of Hu Chon Sunpongco, married to Vlcenta Debuozet; Hu Chin Sunpongco, married to Victoria Yu; Hu Lian Sunpongco, single; and Hu Eng Sunpongco, married to Yu Sam Poy. All the foregoing transactions were duly registered and annotated at the back of the certificate of title covering Lot No. 419.

On 17 November 1964, Hu Chon Sunpongco, as one of the registered owners of Lot No. 419, petitioned the Court of First Instance of Zamboanga del Norte (in Cad. Case No. 2, LRC Cad. Rec. No. 77) for the cancellation of TCT No. RT-647 (13474), and for the issuance of a new certificate of title in the names of said petitioner and the Heirs of Hu Chin Sunpongco, in equal shares. It was claimed that two of the registered owners, Hu Lian Sunpongco and Hu Eng Sunpongco, petitioner's sisters, died in Pukian, China, before the outbreak of the second world war, without issue, whereas the other co-owner, Hu Chin Sunpongco, died in Cebu City, leaving three

children, namely, Aydee Sunpongco, Sim Mon Sunpongco and Mary Sunpongco. And under the rules on succession, ownership of the shares of said deceased descended to their surviving brother, petitioner Hu Chon Sunpongco, and the heirs of Hu Chin Sunpongco.

On 20 November 1964, the petition was granted; the court ordered the cancellation of TCT No. RT-647 (13474) and the issuance of another certificate of title in the names of Hu Chon Sunpongco, married to Vicente Debuozet, 1/2 share, and the Heirs of Hu Chin Sunpongco (Aydee, Sim Mon and Mary, all surnamed Sunpongco), 1/2 share, subject to the pro-visions of Section 4 of Rule 74 of the Revised Rules of Court.

On 21 December 1964, the Heirs of Nicolas Ronquillo and Felipa Saldariega filed in the same case a motion to set aside the court's order of 20 November 1964, which allegedly they came to learn only on 1 De-cember 1964 on the grounds that (1) TCT No. RT-647 (13474) was procured through fraud; (2) petitioner Hu Chon Sunpongco is incapacitated to hold agricultural lands on account of his Chinese citizenship; and (3) lack of notice to movants of the hearing of petitioner's motion for cancellation of the certificate of title. Petitioner Hu Chon Sunpongco and one Jim Young, who was allowed to intervene in the case[1], opposed the motion, claiming that the issues of possession and ownership being raised by the movants properly should be threshed out in an independent, ordinary civil action and not in the land registration case.

On 12 March 1966, the motion of the Heirs of Nicolas Ronquillo was denied, the court ruling that the matters brought up by the pleadings of the parties are beyond its jurisdiction to pass upon. Thus, movants interposed the present appeal.

Actually, the issues in this proceeding are few and simple, viz.,

- (a) Whether or not the court below acted correctly, in denying appellants' motion for lack of jurisdiction, and
- (b) In ordering the cancellation of TCT No. RT-647 (13474) and the issuance of new certificate of title in the names of Hu Chon Sunpongco and the Heirs of Hu Chin Sunpongco.

The lower court's order, to cancel TCT No. RT-647 (13474) and to issue another one in lieu thereof, was evidently made pursuant to Section 112 of Act 496, which confers authority upon the land registration court, after due determination that the petition is supported by good and valid reasons[2], to order the cancellation, alteration or amendment of a certificate of title. The rule, however, withdraws from the court the power to pass upon any question concerning ownership of the regis-tered property[3], or any incident where the issues involved have become controversial.[4] In such eventuality, the proper recourse by the parties would be to bring up said questions in an ordinary civil action[5] or in the proceeding where the incident properly belongs.[6]

In the present case, it may be noted that in moving for reconsidera-tion of the lower court's cancellation-order, movants-appellants charged inter alia that TCT No. RT-642 (13474) was procured through fraud, and that the registered owners of Lot No. 419 are Chinese citizens and, there-fore, are disqualified to own the property.[7] It is not at all difficult to see that the allegations are not just incidents or matters of routine in registration of land cases that can be lawfully disposed of by the court of first instance sitting as a land registration court.[8] Rather, they are issues affecting not only ownership of the land, but even the qualifications of the persons in whose names the property was found registered -- definitely controversial matters which are beyond the competence of the land registration court to pass upon. No error was committed by the lower court, therefore, when it declared itself without jurisdiction to entertain the issues presented by the movants-appellants.

As regard appellants' complaint against the lack of notice to them of the proceeding for cancellation of the certificate covering Lot. No. 419, it may be emphasized that under Section 112 of Act 496, notice of hearing of the petition shall be sent only to all interested parties; but there is nothing in the records to indicate that prior to

the filing of their motion for reconsideration on 21 December 1964 appellants were ever known or recognized or considered to have any interests in the property. Thus, while it may be true that the issuance of the order cancelling the old title and directing its substitution with a new one was characterized by some speed and dispatch^[9], any controversial question that may be raised in connection therewith can not be brought up in the same special proceeding (Cad. Case No. 2, LRC Rec. No. 77) by the herein appellants, nor can they establish their right to the land in that proceeding. Under the circumstances, the order cancelling TCT No. RT-647 (13474) and directing issuance of a new one was within the jurisdiction of the lower court to issue, there being no dispute at the time over the facts alleged in the petition.

WHEREFORE, the order appealed from is hereby affirmed, with costs against the appellants.

Concepcion, C.J., on sick leave, did not take part.

Dizon, and Makasiar, JJ., on leave, did not take part.

Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] The intervention was allowed in view of Young's allegation that he is a buyer in good faith and for value of one-half a Lot No. 419.

[2] Reyes vs. Evangelista, 71 Phil. 487.

[3] Tomada vs. Tomada, G.R. No. L-21887, 30 July 1969, 28 SCRA 1026.

[4] Register of Deeds of Iloilo vs. C. N. Hodges, G.R. No. L-18178, 31 January 1963, 7 SCRA 149.

[5] Bank of P. I. vs. Ty Camca., 57 Phil. 801; Castillo vs. Ramos, 78 Phil. 809; Henderson vs. Garrido, 90 Phil. 624.

[6] Tangunan vs. Republic, G.R. No. L-5545, 29 Dec. 1953; Register of Deeds vs. C. N. Hodges, *supra*.

[7] Pages 11-18, Record on Appeal.

[8] Miraflor vs. Leaño, 93 Phil. 496.

[9] The petition for cancellation, dated 17 November 1964, was granted by order of the court of 20 November 1964.

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