

GREGORIO GITGANO, PLAINTIFF VS. HONORABLE JOSE C. BORROMEO, JUDGE, COURT OF FIRST INSTANCE OF CEBU, ROSALIA DIANO, ESPERANZA F. GARCIA, AS EX-OFFICIO PROVINCIAL SHERIFF OF CEBU,...

G.R. No. L-40429. November 29, 1984

Ponente: CUEVAS, J.

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CUEVAS, J.:

This is a petition for review on certiorari which seeks to annul and set aside the Decision of the then Court of First Instance of Cebu, Branch IV, dismissing Civil Case No. R-13513, an action to annul the Order issued on November 3, 1969 also by the then Court of First Instance of Cebu, Branch III, in Land Registration Case No. R-736.

The core of the challenged judgment of dismissal runs thus -

"While a branch of a Court of First Instance may annul a judgment of another branch of the same Court, the Order sought to be annulled was issued on November 3, 1969. Before the filing of this case, an action for relief of judgment and two cases for reconveyance were already filed, but the plaintiff failed to achieve his purpose. Now, after the lapse of more than three (3) years, plaintiff again comes to the Court and asks for the annulment of the amended judgment of the court in Land Registration Case No. 736. It is claimed by the plaintiff that the amended order adjudicating Lot No. 2359-D in favor of Rosalia Diano is null and void because it is not based on any finding of fact or law, and it is repugnant to the findings of fact in the decision. These are the same grounds alleged by the plaintiff when he filed the case for reconveyance on February 19, 1973 in Civil Case No. 1163 and another action for reconveyance in Case No. 12828 filed on July 12, 1972. As stated before, both cases were dismissed by the Court and the judgments thereon are already final. Besides, the evidence presented herein by the plaintiff does not show clearly the nullity of the order in question." [1]

Hereunder are the pertinent antecedents.

Sometime in 1969, a certain Juan Entica and several others applied for the registration of separate portions of Lot No. 2359, namely, Lot No. 2359-A, 2359-B, 2359-C, 2359-E, 2359-F, 2359-G and 2359-H, situated at Pasna-an, Mandaue, Cebu, before the then Court of First Instance of Cebu, Branch III. The case was docketed as the said court as Land Registration Case No. R-736. The applications were opposed by Rosalia Diano, herein private respondent, who claimed to have inherited the entire Lot 2359 including Lot 2359-D which was not applied for by any of the plaintiffs-applicants, from her mother, Jorgia Cabahug, the original owner of the entire Lot 2359. After the requisite publication and hearing, the land registration court rendered judgment dated September 18, 1969, the dispositive portion of which reads -

"IN VIEW OF THE FOREGOING, judgment is hereby rendered declaring Juan Entico and Narcisa Caguit, spouses, of legal ages, residents of Mandaue City, owner of Lot 2359-A and 2359-H; Alberto Cabahug, widower, Filipino and resident of Lapu-lapu City, owner of Lot 2359-G; Ciriaco Ulanulan, married, Filipino, of legal age and resident of the same City, owner of Lot 2359-F; Valentin Cuadero, married, Filipino, of legal

age, and resident of the same place, owner of Lot 2359-C; and Mariano Alimpoos, widower, Filipino, of legal age and resident of Mandaue City, owner of Lot No. 2359-B; hereby confirming judicially their respective titles.

Thirty (30) days after notice of the decision to the parties let the decree of registration issue to their respective owners.

IT IS SO ORDERED."[2]

On November 3, 1969, the land registration court issued an Order amending its aforesaid Decision, as follows -

"Considering the motions of Ciriaco Ulanulan and Rosalia Diano to amend the decision by including therein for adjudication of Lot 2359-F in his favor and Lot 2359-D in her favor, considering the motions well- founded

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The decision of September 18, 1969 is hereby amended to include the following:

"Judgment is hereby rendered, adjudicating Lot 2359-E to Ciriaco Ulanulan, married, Filipino, of legal age and resident of Mandaue City and Lot 23 59-D to Rosalia Diano, Filipino, of legal age, and a resident of Mandaue City.

IT IS SO ORDERED."[3]

It is this Order of the land registration court, with respect to Lot 2359-D, which petitioner seeks to annul in the present case, Civil Case No. 13513, filed before the defunct Court of First Instance of Cebu on August 13, 1973. No appeal having been interposed from the decision dated September 18, 1969 as well as from the Order dated November 3, 1969 of the land registration court, a decree of registration was subsequently issued to the respective owners also in 1969.[4]

It is not denied that prior to the filing of Civil Case No. 13513, petitioner had previously filed a petition for relief from judgment in Land Registration Case No. 736, which was however dismissed. Petitioner had likewise filed Civil Case No. 11663 before the Court of First Instance of Cebu, Branch VTII against herein private respondent, Rosalia Diano for reconveyance of said Lot 2359-D, but which was also dismissed. Thereafter, another action for reconveyance of the same lot, Civil Case No. 12828, was again filed by petitioner also against Rosalia Diano which was similarly dismissed on the ground that the action was barred by prior judgment. Petitioner filed with the Court of Appeals, a petition for certiorari questioning the validity of said order of dismissal. In its resolution dated February 28, 1973, the Court of Appeals dismissed the petition.[5]

On August 13, 1973, petitioner filed this case, Civil Case No. 13513, before the Court of First Instance of Cebu, Branch IV for the annulment of the amendatory judgment rendered in Land Registration Case No. 736 dated September 18, 1969.

After trial, the case was dismissed by the court a quo. Hence, the instant petition raising the following issues -

1. Whether the orders dismissing Civil Case No. R-11663 and Civil Case No. R-12828, both for reconveyance, which have already become final, bar the action to annul the amendatory judgment of the land registration court of November 3, 1969 filed by petitioner with respondent Judge; and
2. Whether the order of the land registration court dated November 3, 1969 is null and void.

The Order dismissing Civil Case No. R-13513 must be affirmed. The judgment sought to be annulled in-the said case is a judgment in Land Registration Case No. 736, LRC Record No. N-33483, dated November 3, 1969.

Section 38 of the Land Registration Act (Act 496) provides: "Section 38. Decree of registration, and remedies

after entry of decree.

If the court after hearing finds that the applicant or adverse claimant has title as stated in his application or adverse claim and proper for registration, a decree of confirmation and registration shall be entered. Every decree of registration shall bind the land and quiet title thereto, subject only to the exceptions stated in the following section. It shall be conclusive upon and against all persons including the Insular Government and all the branches thereof whether mentioned by name in the application, notice of citation, or included in the general description "To all whom it may concern" Such decree shall not be opened by reason of the absence, infancy or other disability of any person affected, thereby, nor in any proceeding by any court for reversing judgments or decrees; subject however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree provided no purchaser for value has acquired an interest, x x x"

The basic rule, therefore, is after the lapse of one (1) year, a decree of registration is no longer open to review or attack, even though the issuance thereof may have been attended by fraud.[6] After one year from its entry, a decree of registration becomes indefeasible and conclusive.[7] This does not mean, however, that the aggrieved party is without remedy at law. If the property has not yet passed to an innocent purchaser for value, an action for reconveyance is still available.

"The sole remedy of the landowner whose property has been wrongfully or erroneously registered in another's name is, after one year from the date of the decree, is not to set aside the decree, but respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or if the property has passed unto the hands of an innocent purchaser for value, for damages. Such a doctrine goes back to the 1919 landmark decision of *Cabanos vs. Register of Deeds of Laguna*, 40 Phil. 620." [8]

This is exactly what petitioner have done in this case. After his petition for relief from judgment had been denied, he instituted two (2) separate cases for reconveyance of Lot No. 2359-D against private respondent Rosalia Diano, alleging therein that the said lot was "awarded to Rosalia Diano thru fraud and misrepresentation in Land Registration Case No. 736." Both cases for reconveyance were dismissed, the second case on the ground that "the same was already barred by prior judgment." The said order of dismissal was the subject of a petition for certiorari before the then Court of Appeals but the same was dismissed by the said court.

Clearly then, this present case for annulment of judgment[9] filed only on August 13, 1973 or more than one year from the issuance of the decree of registration and after two (2) cases for reconveyance had already been filed and dismissed, is no longer sanctioned by and violative of Section 55 of Act No. 496. The decree of registration issued in the land registration case can no longer be impugned even on the ground of fraud, as the same had already become indefeasible and incontrovertible.[10]

Moreover, the present action for annulment of judgment[11] is now also barred by the prior judgments rendered in Civil Case No. R- 12828 and Civil Case No. R-11663, both for reconveyance of Lot No. 2359-D on the alleged ground of "fraudulent registration" and filed by the same Gregorio Gitgano against Rosalia Diano.

There is "bar by prior judgment" when, between the first case where the judgment was rendered, and the second case which is sought to be barred, there is identity of parties, subject matter and cause of action. The judgment in the first case constitutes an absolute bar to the subsequent action. It is final as to the claim or demand in controversy, including the parties and those in privity with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but to any other admissible matter which might have been offered for that purpose and of all matters that could have been adjudged in that case. But when between the first

and second cases, there is identity of parties but no identity of cause of action, the first judgment is conclusive on the second case, only as to those matters actually and directly controverted and determined and not as to the matters merely involved therein.[12]

The records show that between this present case for annulment [13] and the two previous cases for reconveyance,[14] there is identity of parties, identity of subject matter and identity of causes of action. The annulment case was filed by the same Gregorio Gitgano who filed the two cases for reconveyance against the same defendant, Rosalia Diano; the subject matter of the annulment case is Lot No. 2359-D which is the same subject matter of the reconveyance cases and the cause of action in the three cases is alleged fraudulent registration of said Lot No. 2359-D. There is also no question that the Court of First Instance of Cebu had jurisdiction to hear and determine the petitioner's complaints for reconveyance and the dismissal of the said cases was in the exercise of that jurisdiction. No appeal having been taken from the said orders of dismissal, the same became final.

The contention of petitioner that the dismissal of the second case for reconveyance[15] was not a dismissal on the merit and therefore will not constitute a bar to the present case, is untenable. While it may be true that said Civil Case No. R-12828 was dismissed on the -ground that it is barred by a prior judgment, the issue of fraudulent registration was therein raised not only by petitioner herein, but also by private respondent in her motion to dismiss, so that the dismissal was a judgment on the merits.[16] Thus, the resolution of the then Court of Appeals in the certiorari proceeding assailing the validity of the said order of dismissal in part reads -

"On July 12, 1972, the petitioner herein filed a complaint (Annex "A", Petition) for reconveyance of a parcel of land known as Lot 2359-D which was awarded to herein private respondent Rosalia Diano thru fraud and misrepresentation in Land Registration Case No. 736, also of the Court of First Instance of Cebu;

That instead of answering the complaint, private respondent, thru counsel filed a motion (Annex "B", Petition) to dismiss the complaint, which was opposed by the petitioner as per Annex C of the instant petition;

That on the 7th day of August, 1972, an order (Annex D, Petition) was issued by respondent Judge requiring the private respondent to submit documents to support her motion to dismiss, as per which order the private respondent submitted documents which are attached to the petition as Annexes E, F, G, H, I and J;

That on August 12, 1972, herein petitioner was required to submit a reply within five (5) days from the receipt of a copy of plaintiffs opposition, and finally on September 29, 1972, the respondent Judge issued an order (Annex L, Petition) dismissing the complaint on the ground that the same was already barred by prior judgment."[17]

The rule is that "if both parties have been heard and have introduced testimony, or had an opportunity to do so, and the court, upon consideration of the law and facts as thus presented, dismisses the action, it is not a mere non-suit, but a judgment on the merits and a bar to any further suit on the same cause of action.[18] A plaintiff who deliberately selects his forum and then unsuccessfully presents his proofs, is bound by such adverse judgment in a second suit involving all the identical issues already decided. To hold otherwise, would allow repeated litigation of identical questions. Litigations must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that once a judgment has become final the issues raised therein should be laid at rest. [19]

WHEREFORE, the petition is dismissed with costs against petitioner.

SO ORDERED.

Makasiar (Chairman), Aquino, Concepcion Jr., and Escolin, JJ., concur.

Abad Santos, J., took no part,

[1] Annex "A", Petition, pages 20-21, Rollo.

[2] Annex "C", Petition, pp. 23-27, Rollo.

[3] Annex "B", Petition, p. 22, Rollo.

[4] Answer of defendant Special Sheriff of Cebu, pp. 13-14, Record.

[5] Pages 40-41, Rollo.

[6] Section 55, Act 496; Amamento vs. Guerrero, 96 SCRA 178; Republic vs. CA, 89 SCRA 648.

[7] Philippine National Bank vs. CA, No. L-34404, June 25, 1980, 98 SCRA 207.

[8] Quifiiiano vs. CA, 39 SCRA 221.

[9] Civil Case No. R-13513.

[10] Silveslre vs. CA, 115 SCRA 64.

[11] Civil Case No. R-13513.

[12] Rule 39, Section 49(b) and (c), Rules of Court; Gainboa vs. CA, 108 SCRA 1; Gonzales vs. Sec. of Labor, 116 SCRA 573; Valera vs. Banez, 116 SCRA 648; Vda. de Sta. Romana vs. PCIB, 118 SCRA 330; Vda. de Bacang vs. CA, 125 SCRA 138; Sy Kao vs. Chua Lian King vs. CA, G.R. No. L-61752, September 28, 1984.

[13] Civil Case No. R-13513.

[14] Civil Cases Nos. R-12828 & R-11663.

[15] Civil Case No. R-12828.

[16] Gonzales vs. Hon. Secretary of Labor, *supra*.

[17] Pages 40-41, Rollo.

[18] 34 Corpus Juris, page 790.

[19] Gonzales vs. Hon Secretary of Labor, *supra*.

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