

**TOMASA AGUILAR, ET AL., PLAINTIFFS AND APPELLEES, VS.
EMILIANO CAOAGDAN, ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. L-12580. April 30, 1959*

Ponente: BAUTISTA ANGELO, J.

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Januario Hermitano, as grantee of original plaintiff Tomasa Aguilar, who died pendente lite, seeks to recover from defendants the possession of the portions of land they are occupying, plus damages representing the value of the produce of the land since he acquired it to the time they are surrendered to him. Alberta Aguilar, as heir of Tomasa Aguilar, likewise seeks to recover from defendants damages representing the value of the produce of the land from 1947, when defendants took possession thereof, until it was sold to Januario Hermitano.

Plaintiff's action is based on the claim that the land in question originally belonged to Tomasa Aguilar to whom was issued Transfer Certificate of Title No. 10499 of the land records of the province of Tarlac; that when Aguilar died on August 4, 1952, it was inherited by her only heir Alberta Aguilar; and that the property was later sold to Januario Hermitano, who is now the present owner thereof.

Defendants seek to defeat the action of plaintiffs by claiming that the certificate of title issued to the predecessor in interest of Januario Hermitano is null and void because it was issued by a court that had no jurisdiction over the land and, therefore, the title upon which the action of plaintiffs is based is also null and void.

The trial court overruled the claim of defendants and sustained the action of plaintiffs. It ordered defendants to vacate the portions of land occupied by them and to pay plaintiffs damages representing the value of the produce of the land since they took possession thereof in 1947 until its possession is actually surrendered to Januario Hermitano.

The facts of this case are not disputed. They appear in the decision of the trial court as follows:

"The registered land in question is the same identical property object of Registration Case No. 494 of this Court, G.L.R.O. Record No. 15951, filed in 1919, wherein the Director of Lands was the principal oppositor claiming the land as part of the public domain. The applicants therein were the spouses Simon Castro y Rufo and Tomasa Aguilar. In 1924, this Court rendered therein a decision declaring the land in question a part of the public domain. However, on appeal by the applicants, our Supreme Court, in 1926, reversed the decision of this lot covered by Plan Psu-15730, with the exception of the Canoac Creek, in favor of the applicants. In 1927, the corresponding decree and title was accordingly issued to the applicants (Original Certificate of Title No. 19960— Exhibit 'A'; Records of Registration Case No. 494—Exhibit 'L'). Said certificate of title was cancelled in 1936 and, in lieu thereof, Transfer Certificate of Title No. 10499 (Exhibit 'B') was duly issued in the name of original plaintiff Tomasa Aguilar, who died on August 4, 1952. Before she died, however, she sold pendente lite the land in question to plaintiff Januario Hermitano, and by virtue of said sale Transfer Certificate of Title No. 10499 was cancelled and, in lieu thereof, Transfer Certificate of Title No. 15763 (Exhibit 'C') was issued in favor of Januario Hermitano on April 8, 1953.

"Sometime before the commencement of this case, the defendants had filed individual free patent applications with the Bureau of Lands over several lots comprised within Plan Pls-84 (Exhibit '4') covering a big mass of land situated in Mangatarem, Pangasinan. The Bureau of Lands, however, in January to March, 1947, after due investigation and relocation of the registered property in question, ordered the exclusion from the respective free patent applications of the defendants (Exhibits 'E', 'E-1' to 'E-31') of all portions thereof that were included and comprised within pls-84 (exhibit 4 there is no question that the portions excluded by bureau lands from respective free patent applications defendants, containing a total area 419,824 square meters, more or less, are part and parcel the registered land in question, (exhibits 'D' and 'D-1'). Notwithstanding aforesaid action of the Bureau of Lands, the defendants still insist that the several lots applied for by them in their respective individual free patent applications are part of the public domain. They also insist that the land applied for by them are actually situated within the municipality of Mangatarem, Province of Pangasinan, and, therefore, outside territorial jurisdiction this Court. It is this alleged fact, on which the defendants based their contention that this Court, acting as a land registration court, had no jurisdiction to decree the original registration of the land in question, because the jurisdiction of the Court proceedings is confined and limited only to the territorial limits this province. In contending that the title to the land in question was procured by the original registered owners in bad faith, the defendants claimed that they were not personally notified of the initial registration proceedings in the aforementioned Registration Case No. 494 and that they were misled and deceived by the pendency of another registration case filed by the applicants before the Court of First Instance of Pangasinan over a bigger mass includes several now dispute. "

Appellants claim that the decree issued in Registration Case No. 4940 of the Court of First Instance of Tarlac in 1919, which is more than 30 years upon the filing of the complaint, adjudicating the land in question to Januario Hermitano's predecessor in interest is invalid for the reason that the court that had issued the decree had no jurisdiction to act on the case. In support of this claim, appellants advance the following reasons:

1. When the petition for registration of the land in question was filed in the Court of First Instance of Tarlac in 1919, there was already pending in the Court of First Instance of Pangasinan another registration case involving a bigger portion of land which embraces certain portion of the land subject of the Tarlac registration case, it being the theory of applicants that the Pangasinan court acquired original jurisdiction to the exclusion of all other courts with respect to the land covered by the registration case;
2. Appellants or their predecessor in interest were not included in the notice of the initial hearing of the registration case pending in the Tarlac court and, therefore, were not personally notified of the proceedings as required by law; and 3. A bigger portion of land which one Antonia Fuster sought. to register in her name in a later registration case before the Court of First Instance of Pangasinan and which happens to embrace, the portions now in dispute was subsequently declared public land by the Supreme Court in G. R. No. 40129.

The first ground has no merit. It appears that the Pangasinan court of, first instance dismissed the registration case originally filed by appellees when it found that the portions of the land covered by it which are now the subject of this case were actually situated within the municipality of San Clemente, province of Tarlac, and the dismissal was without prejudice. This dismissal has the effect of relinquishing the jurisdiction originally acquired by the Court of First Instance of Pangasinan and of transferring it to the court of Tarlac which is the proper court to take cognizance of the case. The fact that the registration case in Tarlac was filed sometime before the dismissal of the Pangasinan case can have no legal adverse consequence. On the contrary, it was a rectification of an error committed as to venue for indeed the court that should "take cognizance of this registration case is that which has territorial jurisdiction over the property.

This court is the Court of First Instance of Tarlac. Thus, Section 10, Act No. 2347 provides that "all jurisdiction and power heretofore conferred by Act Numbered Four Hundred and Ninety-Six and its amendments upon the Court of Land Registration and upon the land registration judges, are hereby conferred upon the Courts of First

Instance and judges thereof, of the provinces in which the land which is to be registered is situate." (Italics supplied.)

With regard to the second ground, it is true that appellants were not personally notified of the pendency of the present registration case even if they were actually occupying, as they claim, portions of the land, but such procedural defect cannot affect the jurisdiction of the court because registration proceedings have the nature of actions in rem. This Court has held time and again that lack of personal notice in a registration proceeding to persons who may claim certain right or interest in the property cannot vitiate or invalidate the decree or title issued therein because proceedings to register land under Act No. 496 are rem and not in personam.

"A land registration proceeding is in rem, and therefore the decree of registration is binding upon and conclusive against all persons including the Government and its branches, irrespective of whether or not they were personally notified of the filing of the application for registration or have appeared and filed an answer to said application, because all interested parties are considered as notified by the publication required by law." (Sorongon vs. Makalintal, 80 Phil., 259; See also Roxas vs. Enriquez, 20 Phil., 31; Alba vs. Be la Cruz, 17 Phil., 49; Alcantara, et al. vs. De la Paz, et al. 92 Phil., 796; Sepagan vs. Dacillo, 63 Phil., 412; Castelo vs. Director of Lands, 48 Phil., 589.)

Moreover, it appears that appellants based their right to the land merely on the applications for homestead patent they filed with the Bureau of Lands which were then under investigation when the registration case was filed in the Court of First Instance of Tarlac wherein the Bureau of Lands was made party respondent. This Bureau filed an opposition to the registration claiming that the land subject of the registration was a portion of the public domain, but its opposition was overruled. As a result, the Bureau of Lands ordered a relocation of the portions covered by the applications of appellants and, once relocated, they were ordered excluded from the land covered by the registration case. It can therefore be said that appellants were already indirectly represented in the registration case by the Bureau of Lands because their interest in the land can be considered as derivative of the Bureau's claim that it belong to the public domain.

But what makes the claim of appellants legally futile is that they are raising the nullity or invalidity of the decree and title of appellees over the property in question after the lapse of more than 30 years, which certainly can not be done considering the purpose of our Torrens system. As this Court has aptly said: "When once a decree of registration is made under the Torrens system and the time has passed within which that decree may be questioned, the title is perfect and cannot later be questioned. * * * The very purpose of the Torrens system would be destroyed if the same land may be subsequently brought under a second action for registration" (Reyes and Nadres vs. Borbon and Director of Lands, 50 Phil., 791, 792).

"As the land in dispute is covered by plaintiff's Torrens certificate of Title and was registered in 1914, the decree of registration can no longer be impugned on the ground of fraud, error or lack of notice to defendant, as more than one year has already elapsed from the issuance and entry of the decree. Neither could the decree be collaterally attacked by any person claiming title to, or interest in, the land prior to the registration proceedings. (Sorongon vs. Makalintal, 45 Off. Gaz. 3819.)" (J. M. Tuason & Co., Inc. vs. Quirino Bolaños, 95 Phil., 106).

We also find no merit in the third ground, considering the express provision of Section 45 of Act No. 496 to the effect that land once registered shall be and always remain registered, title thereto becoming indefeasible after the lapse of one year. As this Court has said: "No rule is better settled in this jurisdiction than the one which prohibits the changing, altering or modification of a decree in a land registration proceeding under the Torrens system after the lapse of one year" (Director of Lands vs. Gutierrez David, 50 Phil., 797). Following this ruling we may say that the inclusion, perhaps inadvertently, of the portion of land here in dispute in the Fuster case cannot have the

effect of nullifying a decree issued in a previous registration case giving to appellants a Torrens title to the land. This is more so considering what said Section 45 provides: "The obtaining of a decree of registration and the entry of a certificate of title shall be regarded as an agreement running with the land, and binding upon the applicant and all successors in title that the land shall be and always remain registered land, and subject to the provisions of this Act and all Acts amendatory thereof."

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

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, and Endencia, JJ., concur.
Reyes, A., and Concepcion, JJ., concur in the result.

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