

**GERVACIO D. VERCELES, PETITIONER, VS. HON. ANGEL P. BACANI,
PRESIDING JUDGE OF BRANCH IX OF THE COURT OF FIRST
INSTANCE OF PANGASINAN, AND GREGORIA LADINES Y QUINTOS,
RESPONDENTS.**

G.R. No. L-40107. December 02, 1987

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This case comes to us with a sentimental touch, this being a suit between a grandmother, more than eighty years old when she filed her petition in 1975, and her grandchildren.

The petitioner assails the Decision of the respondent Judge[1] which granted the private respondent's petition for the surrender of the "Owner's Duplicate Copy" of Transfer Certificate of Title (T.C.T., for short) No. 78685 to the Register of Deeds for Pangasinan to enable the petitioner in the trial court and private respondent herein (the grandmother) to register whatever document she desires pertaining to the land embraced therein.[2]

The petitioner avers that on February 16, 1944, his grandmother, the private respondent, Gregoria Ladines y Quintos, and her husband executed a Deed of Donation propter nuptias of 1,064 square meters of residential land, situated in the poblacion of Binalonan, Pangasinan, in favor of their son, Dionisio Verceles and his bride, Donata Antipaz Rodriguez (now both deceased). It was only on April 17, 1970, however, that the herein petitioner and his four brothers (surviving children of Dionisio Verceles and Donata Antipaz Rodriguez) were able to register an adverse claim for the area covered by the said Deed of Donation and had the same annotated in the Memorandum of Encumbrances of T.C.T. No. 78685.[3]

The petitioner claims that after the execution of the Deed of Donation propter nuptias, the private respondent-donor disposed of several portions of the parcel of land covered by T.C.T. No. 78685. Some of these dispositions were annotated in the Memorandum of Encumbrances of the title.

On June 27, 1974, the private respondent filed the petition adverted to earlier. Grandmother Gregoria averred in her petition before the respondent court that she is the registered owner of the parcel of land described in T.C.T. No. 78685; that the "Owner's Duplicate Copy" is in, the possession of the petitioner, who refuses to surrender the same despite several demands; and that she needs the certificate of title very badly for registration purposes.

On July 22, 1974, the herein petitioner, grandson Gervacio, filed in the respondent court his opposition on the grounds that an area of 1,064 square meters included in T.C.T. No. 78685 had been conveyed by grandmother Gregoria to his parents, Dionisio Verceles and Donata Antipaz Rodriguez, by way of donation propter nuptias; that the petitioner and his four brothers acquired the same area by inheritance and/or quitclaim from their deceased parents; that the "Owner's Duplicate Copy" was given to him (the Petitioner) by his father before the latter's death in February, 1974; that there is a pending civil case regarding ownership of the land before the same trial court; and that the private respondent is no longer the owner of the Parcel of land described in T.C.T. No.

78685 due to the series of conveyances and transfers she had already made. The Torrens title shows that the parcel of land registered has a total area of 1,728 square meters only. It is undeniable that the petitioner and his four brothers have been in continuous adverse exclusive possession and enjoyment of the donated portion of 1,064 square meters as owners and have been paying the taxes thereon.

On September 12, 1974, the respondent Judge issued the questioned Order, to wit:

WHEREFORE, the Court, finding the petition to be in order, hereby orders the respondent to surrender the owner's duplicate copy of Transfer Certificate of Title No. 78685 within ten (10) days from receipt hereof to the Register of Deeds for Pangasinan to enable the petitioner to register whatever document she desires pertaining to the land embraced therein.[4]

The decision was primarily anchored on the trial court's skepticism that the disputed land in question, subject matter of the donation propter nuptias, is part of the area described in T.C.T. No. 78685.

On October 29, 1974, the herein petitioner filed a Motion for Reconsideration. On December 5, 1974, an Opposition thereto was filed by the private respondent. On December 10, 1974, the respondent Judge denied the Motion for Reconsideration for lack of merit. Hence, this Petition, which we have considered as a special civil action in our Resolution of April 23, 1975.

This Petition lacks merit. The respondent trial Judge did not commit grave abuse of discretion in rendering the decision now being questioned in these proceedings.

T.C.T. No. 78685 is still in the name of grandmother Gregoria, the private respondent herein. The T.C.T. being in her name, she is the owner of the "Owner's Duplicate Copy," and, therefore, entitled to hold and keep the document. Precisely, that is why it is denominated "Owner's Duplicate Copy." The claim or interest of the petitioner over a portion of the real property described in the certificate of title does not affect at all the private respondent's right of possession of the "Owner's Duplicate Copy" of the T.C.T. yet in her name. The petitioner's adverse claim is duly annotated in the Memorandum of Encumbrances of the T.C.T. That is sufficient protection for the petitioner. His adverse claim does not grant him the right to the physical possession of the Owner's Duplicate Copy." Unless and until T.C.T. No. 78685 has been duly cancelled by the Register of Deeds for the Province of Pangasinan, the physical possession of the "Owner's Duplicate Copy" thereof pertains to the private respondent. But, that is not what the assailed decision mandates. The decision orders the delivery by the petitioner of the "Owner's Duplicate Copy" of T.C.T. No. 78685 "to the Register of Deeds for the Province of Pangasinan to enable the private respondent to register whatever document she desires pertaining to the land embraced therein." The delivery should be to the private respondent.

WHEREFORE, the petition is DENIED. The Decision dated September 12, 1974, is hereby MODIFIED to the effect that the petitioner must deliver the "Owner's Duplicate Copy" of T.C.T. No. 78685 to the private respondent or her duly authorized representative. This DECISION IS IMMEDIATELY EXECUTORY.

Costs against the petitioner.

SO ORDERED.

Yap (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] Hon. Angel P. Bacani, Presiding Judge of Branch IX of the then Court of First Instance of Pangasinan, at Urdaneta.

[2] Rollo, 6, 32.

[3] Rollo, 17.

[4] Rollo, 4, 32.

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