

A. DORONILA RESOURCES DEV., INC., PETITIONER, VS. COURT OF APPEALS AND THE REGISTER OF DEEDS OF RIZAL, RESPONDENTS.

G.R. Nos. L-42956-57. January 12, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

Petition for review on certiorari of the decision* of the respondent Court of Appeals issued on 26 November 1975 in cases CA-G.R. Nos. SP-02509 & 02711, entitled: “A. Doronila Resources Dev. Inc., petitioner-appellant, versus Register of Deeds of Rizal, respondent-appellee,” which affirmed the resolutions of the Land Registration Commission in LRC Consulta Nos. 887 and 894, denying petitioner's application for registration of an adverse claim. The Court considered the petition as a special civil action.

The facts, as found by the respondent appellate court, are as follows:

“1. Blue Chips Projects, Inc. a Corporation duly organized and existing under the laws of the Philippines, is the registered owner of a parcel of land containing an area One Million Two Hundred Fifty-Six Thousand Two Hundred and Sixty-Nine (1,256,269) sq. meters, more or less, situated in Barrio Patiis, Municipality of San Mateo, Province of Rizal and covered by TCT Certificate of Title No. 344936 of the Registry of Deeds of Rizal (See original Record in LRC Consulta No. 887).

2. Blue Chips Projects, Inc. purchased said property from Purita Landicho the lawful registered owner under Transfer Certificate of Title No. 167681 (id.);

3. On December 11, 1972, petitioner-appellant A. Doronila Resources Development Inc. availed of the remedy of *lis pendens* in Civil Case No. 12044 of the First Court of Instance of Rizal, the same having been annotated on Transfer Certificate of Title No. 344936 in the name of Blue Chips Projects, Inc. (id.);

4. On August 8, 1973, petitioner thru its President Alfonso Doronila, filed an affidavit of adverse claim for registration on Transfer Certificate of Title No. 344936 with the Register of Deeds of Rizal on the ground that the property covered by the aforesaid title registered in the name of Blue Chips Projects, Inc. is a portion of a big parcel of land which was purchased by petitioner corporation from Alfonso Doronila (Adverse Claim of petitioner-appellant----- Record of LRC Consulta No. 887);

5. Respondent-appellee, the Register of Deeds of Rizal denied the registration of affidavit of the aforementioned adverse claim on the ground ‘that a notice of *lis pendens* remains registered on the certificate of title involved should be a bar to the registration of an affidavit of adverse claim. Considering that the rights and interests of the petitioner are already amply protected thereby without imposing a further burden on the registered owner by the registration of an affidavit of adverse claim which would be serving the same purpose. After all, an affidavit of adverse claim does not add anything to the validity of one’s claim nor does it create a non-existent right’ (Letter of Denial dated August 13, 1973. Record of LRC Consulta 887);

6. Petitioner elevated the matter en consulta to the Land Registration Commission (Records, LRC Consulta No. 887);

7. On November 6, 1973, the Land Registration Commission issued its Resolution holding that the affidavit of adverse claim be denied registration (LRC Consulta No. 887);
8. On November 5, 1973, Transfer Certificate of Title No. 344936 registered in the name of Blue Chips Projects, Inc. was cancelled and Transfer Certificate of Title No. 425582 was issued in favor of the purchaser Winmar Poultry Farms Inc. with an annotation at the back thereof that the property therein described is subject to the Resolution of LRC Consulta No. 887 (Record, LRC Consulta No. 894);
9. Petitioner A. Doronila Resources Dev. Inc. again sought the registration of an affidavit of Adverse Claim identical to that which was the subject of LRC Consulta No. 887 on TCT No. 425582 registered in the name of Winmar Poultry Farms Inc. (Adverse Claim, LRC Consulta No. 894);
10. Respondent-appellee Register of Deeds elevated the records to the Land Registration Commission for resolution under Sec. 4 of R.A. No. 1151 (Letter dated Nov. 27, 1973, Record, LRC Consulta No. 894);
11. The Land Registration Commission rendered on January 8, 1974, a resolution in L.R.C. Consulta No. 894 maintaining its opinion in L.R.C. Consulta No. 887 and ruling against registrability of the affidavit of adverse claim (Resolution LRC Consulta No. 894);
12. Not satisfied with the above resolution, petitioner appealed to this Honorable Court (Notice of Appeal, Record of LRC Consulta No. 894);
13. On March 12, 1974, appellant filed before this Honorable Court a petition for Consolidated (sic) of Case SP-02569 (LRC Consulta 887) and Case SP-02711 (LRC Consulta 894) which was granted by this Honorable Court on March 19, 1974 (p. 11, Appellant's Brief)" pp. 2-5, Brief for the Respondent-Appellee"[1]

On 26 November 1975, the respondent Court of Appeals; as earlier stated, rendered a decision affirming the resolutions of the Land Registration Commission in LRC Consults Nos. 887 and 894.[2] The Court of Appeals said:

"I. CONSIDERING: That as this Court understands position of appellant Doronila Resources, it was and is true registered owner of subject land as successor-in-interest of original registered owner, Meerkamp & Company under OCT 301 issued on 14 January, 1907.

But that thru certain manipulations, another title was issued to same land, namely, TCT 167681 in the name of Landicho, which in turn was conveyed unto Blue Chips, and new title issued in the name of Blue Chips, TCT 344936 in November, 1971, and finally, this last title was conveyed unto Winmar Poultry Farms and new title TCT 425582 was issued unto Winmar in November, 1973 — therefore, Doronila Resources contends that as a matter of right on its part, and a ministerial duty of Register of Deeds, its notice of ADVERSE CLAIM should be annotated in TCT 344936 and its successor, TCT 425582, — and the denial by Commissioner of Land Registration to that registration was wrong, — the denial having been based on the ground that appellant Doronila Resources had already filed Civil 12044 in CFI Rizal and had there already secured annotation of LIS PENDENS on TCT 344936; which Doronila Resources claims was no ground at all for denial, because Lis Pendens and Adverse Claims are different, and it had itself asked cancellation of its Lis Pendens as to TCT 344936 . . ." (pages 5-6, Decision)

xxx xxx xxx

"xxx if therefore, instead of at once filing adverse claim, he filed suit, as in present case, — in the mind of this Court, the annotation, the further annotation, of adverse claim becomes redundant, xxx" (page 7, Decision)[3]

Hence, the present recourse.

The sole issue involved is whether or not the annotation of a notice of lis pendens at the back of a certificate of

title precludes the subsequent registration on the same or successor certificate of title of an adverse claim.

The Land Registration Commission, in its resolutions in the Consultas, abovementioned, declared, and the respondent appellate court affirmed, that since the petitioner had already availed of the remedy of *Lis pendens*, and that the rights and interests of adverse claimant are already amply protected by the registration of such notice of *Lis pendens*, “it does not seem fair to have a title saddled by two encumbrances arising from one and the same source, and serving one and the same purpose.”[4]

This Court, however, has ruled differently, i.e., that the two remedies, notice of *Lis pendens* and adverse claim, are not contradictory or repugnant to one another; nor does the existence of one automatically nullify the other, and if any of the registrations should be considered unnecessary or superfluous, it would be the notice of *Lis pendens*, and not the annotation of an adverse claim which is more permanent and cannot be cancelled without adequate hearing and proper disposition of the claim involved. The Court said:

“But We have to give certain consideration to the implication created by the lower court’s ruling that the institution of a court action for the purpose of securing or preserving the right which is also the object of an adverse claim invalidates the latter, irrespective of whether a notice of *Lis pendens* has been annotated or not, for such a doctrine gives the impression that the 2 remedies are contradictory or repugnant to one another, the existence of one automatically nullifying the other. We are inclined to believe otherwise, for while both registrations have their own characteristics and requisites, it cannot be denied that they are both intended to protect the interest of a claimant by posing as notices and caution to those dealing with the property that same is subject to a claim. But while a notice of *Lis pendens* remains during the pendency of the action, although same may be cancelled under certain circumstances as where the case is prolonged unnecessarily or for failure of the plaintiff to introduce evidence bearing out the allegations of the complaint (*Victoriano vs. Rovira*, 55 Phil. 1000; *Municipal Council of Paranaque vs. Court of First Instance of Rizal*, 40 Off. Gaz., 8th Supp.. 196); and it has even been held that a court, in the absence of a statute, has the inherent power to cancel a *Lis pendens* notice in a proper case (*Victoriano vs. Rovira*, supra), the same is not true in a registered adverse claim, for it may be cancelled only in one instance, i.e., after the claim is adjudged invalid or unmeritorious by the Court, acting either as a land registration court or one of general jurisdiction while passing upon a case before it where the subject of the litigation is the same interest or right which is being secured by the adverse claim. The possibility therefore, that parties claiming an interest in a registered property desire, for any other purpose, to have their cause ventilated in a court of general jurisdiction, may result in giving them two ways of making the registration of their claimed rights. In such instances, it would not only be unreasonable but also oppressive to hold that the subsequent institution of an ordinary civil action would work to divest the adverse claim of its validity, for as We have pointed out, a notice of *Lis pendens* may be cancelled even before the action is finally terminated for causes which may not be attributable to the claimant. And it would similarly be beyond reason to confine a claimant to the remedy afforded by Section 110 of Act 496 if there are other recourses in law which such claimant may avail of. But, if any of the registrations should be considered unnecessary or superfluous, it would be the notice of *Us pendens* and not the annotation of the adverse claim which is more permanent and cannot be cancelled without adequate hearing and proper disposition of the claim.”[5]

Besides, it cannot really be said that the rights and interests of the petitioner over the land in question are amply protected by the annotation at the back of TCT 425582 issued in the name of Winmar Poultry Farms, Inc., that “the property therein described is subject to the resolution of LRC Consulta No. 887.” The statement that the property described is subject to the resolution of a consulta, unlike a statement of adverse claim, cannot serve as a notice and warning to third persons dealing with the property that someone is claiming an interest in the same or a better title than that of the registered owner thereof. A consulta, as is generally understood, is but the reference of a question to the Commissioner of Land Registration by a Register of Deeds when he is in doubt as to the proper step to be taken when a deed or instrument is presented to him for registration.

WHEREFORE, the petition is GRANTED. The decision of the Court of Appeals, dated 26 November 1975, in CA-G.R. Nos. SP-02509 and 02711 as well as the resolutions in LRC Consulta Nos. 887 and 894, issued by the Land Registration Commissioner on 6 November 1973, and 8 January 1974, respectively, are hereby ANNULLED and SET ASIDE. The Register of Deeds of Rizal is directed to register (annotate) the affidavit of adverse claim of A. Doronila Resources Dev. Inc. at the back of TCT No. 344936 of the Registry of Deeds of Rizal issued in the name of Blue Chips Projects, Inc. and of TCT No. 425582 of the same Registry issued in the name of Winmar Poultry Farms, Inc. Without Costs.

SO ORDERED.

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

* Penned by Justice Magno S. Gatmaitan with the concurrence of Justices Mama Busran and Vicente G. Ericta.

[1] Rollo pp. 20-22

[2] *id.*, p. 19.

[3] Rollo, pp. 10-11

[4] *Id.*, p. 28: Appellant's Brief, p. 21

[5] *Ty Sin Tei vs. Lee Dy Piao*. 103 Phil. 858. 868-869.

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