

THE DIRECTOR OF LANDS, PETITIONER, VS. COURT OF FIRST INSTANCE OF RIZAL, BR. XII, HON. FERNANDO A. CRUZ, PRESIDING JUDGE; AND PABLO, ANGELITA, JUAN, BARCELISA, ISRAEL, REBECCA ...

G.R. No. L-31681. July 31, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is a Petition for Review (Appeal by Certiorari) filed by the Director of Lands from the Orders dated January 4, 1969 and July 14, 1969 of respondent Court of First Instance of Rizal, Branch XII Caloocan City, in Land Re-registration Case No. C-72, L.R.C. Record No. N-30167. Said order of January 4, 1969 denied the Petition for Review filed by the Director of Lands and the order of February 3, 1969 denied the motion for reconsideration.

Briefly, the facts of the case are as follows:

On February 22, 1966, respondents Pablo, Angelita, Juan Barcelisa, Israel, Rebecca and Pedro Jr., all surnamed Casaje, filed with the Court of First Instance of Rizal, Land Registration Case No. C-72, L.R.C. Record No. N-30167, for the confirmation and registration of their title to a parcel of land situated in Barrio San Roque, Municipality of Navotas, Province of Rizal, more particularly described on plan PSU-214300 with an area of 986 square meters. They alleged that they are the owners in fee simple and in possession of the aforementioned land and that their possession together with their predecessors-in-interest has been from time immemorial and for a period of more than thirty (30) years, public, continuous, adverse to the whole world, and in the concept of absolute owners thereof.

The Director of Lands, thru the Solicitor General, filed an Opposition dated July 18, 1966 stating that neither the applicants nor their predecessors-in-interest possess sufficient title to the parcel of land sought to be registered, the same not having been acquired by them by composition title from the Spanish government or by possessory information title under the Royal Decree of February 13, 1894; that neither the applicants nor their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land in question for at least 30 years immediately preceding the filing of the application and that the same is a portion of the public domain belonging to the Republic of the Philippines.

Notice of the initial hearing scheduled on September 8, 1966 was furnished the Director of Lands. The corresponding publication was made in the official Gazette and the required posting of Sheriff's notice was duly complied with.

At the said scheduled initial hearing, however, the Director of Lands did not appear. Instead, counsel for the applicants presented to the court, the second and third indorsements of the District Land Officer dated August 7, 1966, manifesting that the Bureau of Lands is no longer interested in opposing the application for registration, because after due investigation the land was found to be of private ownership as certified to by the land

investigator Mr. Jose Sison, C/O District Land Officer III-1. The third indorsement, dated August 7, 1966 and signed by Mr. Arturo Pascual, re-commended that in view of the above findings as per investigation conducted by a representative of the Bureau of Lands, no opposition be filed. A copy of the said 2nd Indorsement is hereinbelow reproduced as follows -

SUBJECT:

Land. Reg. Case No. C-72

L.R.C. Rec. No. N-30167

Pablo Casaje, et al.

San Roque, Navotas,

Rizal

2nd Indorsement

August 1, 1966

Respectfully returned to the Director of Lands thru the District Land Officer, DLO III-1, Bureau of Lands, Manila, sub-mitting hereunder the findings and report of the undersigned on the above-noted Registration Case, to wit:

That the parcel of land sought to be registered is a residential lot located in San Roque, Navotas, Rizal which was originally owned and possessed by Leonardo Casaje, deceased and father of the herein registration applicants;

That the land subject of this registration was declared for taxation purposes under Tax Dec. No. 8800 in the names of the applicants and the taxes were paid for and the latest is covered by O.R. No. D-1865945 dated May 31, 1966 with an assessed value of P990.00;

That during the ocular investigation of the premises of the land subject of this registration, it has been ascertained that a camarin and a residential house are found thereon. The 3-meter legal easement has been set aside and unoccupied for embankment of the Navotas, River;

That it has been ascertained further that the subject of this registration case is abutting Lot 12 of Psu-64860 of Leonardo Casaje which is a titled or private property;

That the land has been found that the same is not covered by any public land applications or patent neither it is within any public or quasi public improvements;

That the undersigned has finally ascertained that the applicants are Filipino citizens and no person, corporation, or association is either directly or indirectly interested in the land sought to be registered; and

That the applicants thru their predecessors-in-interest and in concept of owners have been in actual, open, adverse, public and continuous occupation and possession for more than thirty (30) years which is believed to be not later than July 4, 1926.

In view of the foregoing, and in as much as the applicants have satisfactorily met all the conditions essential to entitle them to a Judicial legalization of their imperfect claims over the land applied for under the provisions of Section 48(b) of Com. Act No. 141, as amended by R.A. No. 1942, it is recommended that no opposition be interposed on the instant Registration Case as far as our Office is concerned.

(SGD.) JOSE SISON

Land Investigator

Also on September 8, 1966, respondent Court, for failure of the Oppositors to appear despite due notice, entered an order of general default against the whole world, with the exception of the provincial government of Rizal and the municipal government of Navotas, thereby authorizing the applicants to present their evidence before the Deputy Clerk of Court, who was commissioned to receive the same.

On September 13, 1966, respondent court rendered a decision declaring the applicants, the true and absolute owners of the land in question, and ordering the registration thereof in their names but reserving for public easement a 3.00 meter strip of the land along the Navotas River.

On August 26, 1967, the private oppositors Roberto Lusterio, et al., filed a Petition for Review from the order of general default and from the judgment alleging fraud and evident bad faith. The petition was denied by respondent court for failure on the part of private oppositors to prove their allegations of fraud and evident bad faith allegedly employed by the applicants. No appeal was inter-posed by the private oppositors from the said order.

On his part, the Director of Lands filed on October 11, 1967, a Petition for review, pursuant to Sec. 38 of Act No. 496, alleging fraud in obtaining the decree of registration and that the one (1) year period has not elapsed from the issuance of the decree (the decree was issued on June 5, 1967).

The applicants (the Casajes) filed an opposition con-tending among other things, that the said petition for review "represents the interest of Eusebia Cruz, Roberto Lusterio and Evangelina Laquindanum who were the original oppositors represented by private counsel Atty. Artemio L. Agcaoili"; that since the decree of registration was issued on June 5, 1967 and since the corresponding certificate of title has already been issued by the Register of Deeds, said petition for review is a mere harassment, and that the land in dispute, as may be seen from the investigation report and indorsement of the District Land Officer, is the private property of Leonardo Casaje; and that the afore-mentioned Eusebia Cruz, Roberto Lusterio and Evangelina Laquindanum were merely their tenants.

The petition for review was set for hearing on December 19, 1968. On January 4, 1969, respondent court issued its Order denying the petition for lack of evidence to support the same. From this order, after its motion for reconsideration had been denied, herein petitioner interposed this petition.

The primordial question to be resolved in the case at bar is whether or not respondent court erred in denying petitioner's petition for review filed pursuant to Sec. 38 of Act 496, (Land Registration Act) which 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 by any proceeding in 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 innocent purchaser for value has acquired an interest. x x x."

The essential elements for the allowance of the re-opening or review of a decree are: (a) that the petitioner has a real and dominical right; (b) that he has been deprived thereof; (c) through fraud; (d) that the petition is filed

within one year from the issuance of the decree; and (e) that the property has not as yet been transferred to an innocent purchaser.

However, for fraud to justify the review of a decree, it must be extrinsic or collateral and the facts upon which it is based have not been controverted or resolved in the case where the judgment sought to be annulled was rendered. The following ruling spells out the difference between extrinsic and intrinsic fraud:

"Extrinsic or collateral fraud, as distinguished from intrinsic fraud, connotes any fraudulent scheme executed by a prevailing litigant "outside the trial of a case against the defeated party, or his agents, attorneys or witnesses, whereby said defeated party, is prevented from presenting fully and fairly his side of the case." But in-intrinsic fraud takes the form of "acts of a party in a litigation during the trial, such as the use of forged instruments or perjured testimony, which did not affect the present action of the case, but did prevent a fair and just determination of the case." (Libudan vs. Gil 45 SCRA 17)

In other words, extrinsic fraud is one that affects and goes into the jurisdiction of the Court.

In its Petition for Review filed before the respondent court, petitioner alleged that the Casajes committed fraud in obtaining said decree of registration in the following manner:

(a) By falsely alleging and misre-presenting that they have been in peaceful, open, adverse and continuous possession of the land described in paragraph 1 hereof for more than 30 years, the truth being that said land had been in the actual and exclusive possession of Eusebia Cruz, Roberto Lusterio and Evangeline Laquin-danum who are not and have never been in such possession as tenants or representatives of the registration applicants;

(b) By falsely representing that the land was formed by alluvia and is thus an accretion to their private property, the truth being that the entire land has always been part of the public domain, formed as it was by the intervention of human hands; and

(c) By misrepresenting that no other person, including the state, has any in-terest whatsoever in the land in question. (pp. 47-48, Rollo)

Clearly, the foregoing allegations, even if proved, do not constitute extrinsic fraud as would warrant a re-opening of the decree.

The person(s) contemplated under Section 38 of Act 496, to be entitled to a review of a decree of registration, are those who were fraudulently deprived of their opportunity to be heard in the original registration case. Such is not the situation of the petitioner here. It was not denied a day in court by fraud, which the law provides as the sole ground for reopening of the decree of registration. In fact, it opposed the application but failed to substantiate its opposition because it did not appear at the hearing of the registration case despite proper notice. In Solomon et al., vs. Bocauto et al., 71 Phil. 363, 365, cited in Crisolo vs. Court of Appeals, 68 SCRA 435, 441, a petition for review of a decree of registration was properly denied for "both petitioners had notice of the original registration proceedings; but failed to put up any claim and to show title in themselves." Significantly, petitioner failed to explain why it failed to appear at the hearing. Mere allegation of fraud is not enough. Specific, intentional acts to deceive and deprive another of his right, or in some manner injure him must be alleged and proved. There must be actual or positive fraud as distinguished from constructive fraud to entitle one to the reopening of a decree of registration. And it must be extrinsic and not intrinsic fraud (Greg Alba vs. de la Cruz, 17 Phil. 49, 57). This is necessary to maintain the stability of judicial decisions and save the precious time of the courts from being wasted by unnecessary proceedings. Moreover, the fact that the District Land Officer of the Bureau of Lands conducted the corresponding inspection and investigation of the land in question with its findings and report submitted in court, renders the present appeal interposed by the Director of Lands about valid

basis. It cannot just simply deny the report of its own investigator. Besides, there is always that presumption of regularity in the performance of official function.

WHEREFORE, this petition is DENIED for lack of merit. The order of respondent judge denying the petition for re-view and/or to reopen the decree of registration in Land Registration Case No. C-72, L.R.C. Record No. N-30167 is hereby AFFIRMED.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Gancayco, JJ., concur.

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