

JOSE SETON AND JULIANA SETON, PETITIONERS VS. HON. JOSE S. RODRIGUEZ, JUDGE OF THE COURT OF FIRST INSTANCE (BRANCH IV) OF CEBU, AND IGNACIO SETON, RESPONDENTS.

G.R. No. L-16285. December 29, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This is a petition for certiorari with preliminary injunction to annul an order of the Court of First Instance of Cebu requiring the petitioners Jose Seton and Juliana Seton to surrender the owner's duplicate of Original Certificate of Title No. RO-783 (0-244) to the Register of Deeds for the annotation of the rights acquired by the respondent Ignacio Seton in the land covered by the title.

It appears from the record that the original certificate of title above mentioned, which is in the possession of the petitioners Jose and Juliana Seton, was issued in the name of their parents Baldomero Seton and Severa Quimada, who died Intestate sometime in 1918 and 1940, respectively, leaving as their legitimate heirs their four children, namely, the said petitioners and Andrica and Jacinto. On May 29, 1959, Jacinto's son, herein respondent Ignacio Seton, filed a complaint in the Court of First Instance of Cebu against Jose, Andrica and Juliana for the partition of the real estate left by the deceased spouses, with damages, alleging, among other things, that on June 10, 1952 he acquired by purchase and for valuable consideration all the rights and interests of his father therein. (Civil Case No. 6174.)

On June 3, 1959, Ignacio Seton also filed a motion in another branch of the Court of First Instance of Cebu in the original land registration proceedings, praying that Jose and Juliana Seton be ordered to deliver the owner's duplicate of Original Certificate of Title No. RO-783 (0-244) to the Register of Deeds so that the deed of sale executed by his father in his favor may be annotated thereon.

Jose and Juliana Seton opposed the motion, alleging that the lots covered by the Torrens title had been partitioned among the heirs thereto, including Ignacio Seton's father; that shortly after the death of their mother in 1940, Jacinto Seton, Ignacio's father, sold his shares to Jose Seton and one Pedro Quimada, which transaction was known to Ignacio; and that consequently, the deed of sale sought to be registered was "fictitious, false and fraudulent". The oppositors also invoked the pendency of the action for partition filed by Ignacio Seton against them and Andrica Seton, wherein the validity of the sale between Jacinto Seton and his son Ignacio was raised. Accordingly, in a "petition for writ of preliminary injunction" filed in the same proceedings, the said oppositors prayed that the consideration of the motion for the surrender of title and annotation be held in abeyance until after the action for partition and damages is decided.

Before the petition for the issuance of a writ of preliminary injunction^[1] could be heard, however, the Respondent Judge on September 15, 1959 issued the order now complained of, requiring Jose and Juliana Seton to surrender the owner's duplicate of Original Certificate of Title No. 0-783 (0-244) to the Register of Deeds of Cebu for the annotation of the rights acquired by Ignacio Seton from his father Jacinto Seton. Reconsideration of

the order having been denied, Jose Seton and Juliana Seton filed a notice of appeal, appeal bond and record on appeal. The appeal, however, was not allowed, the court below citing the ruling in the case of *Government of the Philippines vs. Payva* (44 Phil, 629), "to the effect that the order requiring the holder of a duplicate certificate to surrender the same for annotation of attachment or any other lien under Section 72 of the Land Registration Act is not appealable." From this order, Jose and Juliaba Seton brought the case to this Court thru the present petition for certiorari. As prayed for, the writ of preliminary injunction was issued upon the petitioners posting a bond of P200.00.

At the outset, it should be stated that the lower court erred in dismissing petitioners' record on appeal on the authority of the ruling of this Court in the case of *Government of the Philippines vs. Payva*, supra. For it was precisely held there by this Court that an order of the registration court requiring the holder of a duplicate certificate of title for the purpose of annotating an attachment, lien, or adverse claim under section 72 of Act 496 is appealable because it resolves important questions as to the respective rights of the parties.

Going into the merits of the case, we do not, however, think that the lower court committed any error, or much less abused its discretion, in issuing the order complained of requiring the petitioners to surrender the owner's duplicate certificate of title for the annotation of the deed of sale in favor of respondent Ignacio Seton. Registration is a mere ministerial act by which a deed, contract or instrument is sought to be inscribed in the records of the Office of the Register of Deeds and annotated at the back of the certificate of title covering the land subject of the deed, contract or instrument. Its purpose is to give notice thereof to all persons (sec. 51, Act No. 496) and does not declare that the recorded instrument is a valid and subsisting interest in the land. This is so because the effect or validity of the instrument can only be determined in an ordinary case before the courts, not before a court acting merely as a registration court which has no jurisdiction over the same. (*Agricultural Credit Cooperative Association of Hinigaran vs. Yusal*, 107 Phil., 791.) In other words, registration only operates as a notice of the deed, contract or instrument to others, but neither adds to its validity nor convert an invalid instrument into a valid one between the parties. In the case of *Gurbax Singh Pabla & Co. et al. vs. Reyes, et al.*, (92 Phil., 177; 48 Off. Gaz. 4365), this Court had occasion to rule that "The supposed invalidity of the contracts of lease is no valid objection to their registration, because invalidity is no proof of their nonexistence or a valid excuse for denying their registration * * *. If the purpose of registration is merely to give notice, then questions regarding the effects or invalidity of instruments are expected to be decided after, not before, registration. It must follow as a necessary consequence that registration must first be allowed, and validity or effect litigated afterwards. (See also *Register of Deeds of Manila vs. Tinoco Vda. de Cruz*, 95 Phil., 818; 53 Off. Gaz., 2804; *Samanilla vs. Cajucom et al.*, 107 Phil., 432; 57 Off. Gaz. [33] 5876.)

In the case at bar, it will be noted that all that respondent Ignacio demands or prays for is the surrender of the owner's duplicate of the original certificate of title so that the contract of sale in his favor affecting a portion of the land covered by the title may be annotated thereon. Following the ruling in the cases above cited, the pendency of the partition proceedings instituted by the respondent Ignacio Seton against his father's co-heirs, wherein the validity of the sale of the latter's share to him is in issue, does not preclude said Ignacio Seton from requesting that said sale be registered at the back of the certificate of title covering the land. Both cases may proceed independently of each other. Where the claim or sale is adjudged to be invalid, its annotation may be cancelled and if found by the court to be frivolous or vexatious the court may tax the adverse claimant double or treble costs in its discretion. (*Register of Deeds of Manila vs. Tinoco Vda. de Cruz*, supra.)

Wherefore, the order complained of is affirmed, and the preliminary injunction heretofore issued dissolved. With costs against the petitioners.

Bengzon, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, and Dizon, JJ., concur.

Order affirmed.

[1] Subsequently denied in an order dated September 26, 1959.

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